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CHARLES E. BENNETT AND JOHN C. ROLFE

ROMAN CONSTITUTIONAL HISTORY

753–44 B.C.

BY

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Dedicated to

PRESIDENT CYRUS NORTHROP, LL.D.

AS A TOKEN OF

THE AUTHOR'S ADMIRATION FOR HIM

AS AN

EDUCATOR, ORATOR, AND MAN

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PREFACE.

THE object of this book is to provide collateral reading for students of Latin, to supplement the ordinary school histories of Rome, and, especially, to furnish an introduction to a thorough study of the political institutions of the Roman republic.

The *denarius* has been valued at twenty-two cents, and the *sestertius* at five and a half cents. In statements concerning the census and the number of citizens, the year when the censors were elected has been given. Whenever the letters A.D. have not been added, dates always refer to the time B.C. For the convenience of readers who have not studied Latin, nearly all technical terms have been translated.

Of the many eminent authorities on Roman Constitutional History and Law, I am by far the most indebted to Theodor Mommsen, Ernst Herzog, Ludwig Lange, and Pierre Willems. I wish also to acknowledge my great obligations to Professors F. W. Kelsey and J. H. Drake of Michigan University, and Professors J. S. Clark and J. B. Pike of the University of Minnesota. The General Editors of this Series have read with the greatest care both the manuscript and the proofs, and have throughout rendered invaluable assistance.

J. E. GRANRUD.

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November, 1901.

CONTENTS.

FIRST PERIOD.

THE FORMATION OF THE ROMAN STATE,
753–509 B.C.

CHAPTER I.

INTRODUCTION.

		PAGE
I.	The Italians	1
II.	The Latins	2
III.	The Romans	4

CHAPTER II.

THE ORIGINAL CONSTITUTION OF ROME.

I.	Classes of the Roman Population and Organization of the Curies	7
II.	The Assembly of Curies	10
III.	The Senate	12
IV.	The King and his Deputies	14

CHAPTER III.

THE LATER ROYAL CONSTITUTION.

I.	The Plebeians and the Younger Clans	19
II.	Constitutional Reforms of Servius Tullius	21
III.	Progress of Rome and Abolition of the Monarchy	24

SECOND PERIOD.

THE EQUALIZATION OF THE ORDERS,
509–287 B.C.

CHAPTER I.

THE REPUBLICAN CONSTITUTION, 509–494.

		PAGE
I.	The Consuls and the Dictator	27
II.	The Senate and the Patriciate	33
III.	The Assemblies of Curies and Centuries	35

CHAPTER II.

THE ORGANIZATION OF THE PLEBEIANS, 494–462.

I.	The System of Occupation, the Law of Debt, and the First Secession	39
II.	The Plebeian Tribunes, Aediles, and Assembly	42
III.	The Law of Publilius Volero	47

CHAPTER III.

THE DECEMVIRS, THE LAWS OF THE TWELVE TABLES, AND THE RESTORATION, 462–447.

I.	The Movement in Favor of a Code	50
II.	The Decemvirs, the Laws of the Twelve Tables, and the Second Secession	52
III.	The Valerio-Horatian Laws and the New Popular Assembly	55

CHAPTER IV.

CONSULAR TRIBUNES AND CENSORS, 447–367.

I.	Intermarriage, Consular Tribunate, and Censorship	58
II.	Economic Measures and Party Politics	62

CHAPTER V.

THE LICINIO-SEXTIAN LAW AND THE ESTABLISHMENT OF THE PLEBEIANS IN THE GOVERNMENT, 367–312.

		PAGE
I.	The Enactment, Character, and Results of the Licinio-Sextian Law	66
II.	Plebeian Progress, Economic Conditions and Measures	70
III.	The Publilian, Ovinian, and Poetelian Laws	73

CHAPTER VI.

THE CLAUDIAN REFORMS AND THE HORTENSIAN LAWS, 312–287.

I.	The Reforms of Appius Claudius, and the Reaction	78
II.	The Ogulnian, Valerian, and Hortensian Laws	81

CHAPTER VII.

REVIEW OF THE CONSTITUTIONAL DEVELOPMENT, 509–287; AND A SURVEY OF THE POLITICAL DEVELOPMENT, 509–268.

I.	The Citizens and the Assemblies	86
II.	The Magistrates and the Senate	89
III.	Rome in League with the Latins and the Hernici	93
IV.	The Conquest and Organization of Central and Southern Italy	98

THIRD PERIOD.

THE SUPREMACY OF THE SENATE, 287–133 B.C.

CHAPTER I.

THE NEW ARISTOCRACY AND THE FIRST PUNIC WAR, 287–241.

I.	The New Aristocracy	102
II.	The First Punic War and the First Roman Provinces	106

CHAPTER II.

The Laws of Gaius Flaminius and the Reform of the Centuriate Assembly, 241–220.

		PAGE
I.	The Agrarian Law and the Policy of Flaminius . . .	112
II.	The Claudian Law and the Aristocracy of Wealth . .	115
III.	Reform of the Assembly of Centuries by Flaminius . .	118

CHAPTER III.

Constitutional Changes and Expedients during the Second Punic War, 220–201.

I.	The Opposition and the Military Measures	122
II.	The Senate and the Popular Assemblies	125
III.	The Consequences of the Second Punic War . . .	128

CHAPTER IV.

The Government and the Oligarchy, 201–133.

I.	The Measures of Scipio Africanus and the Opposition of Cato	132
II.	The Senate and the Consolidation of the Oligarchy . .	136
III.	The Magistracy and the Administration	142

CHAPTER V.

The People and the Assemblies, 201–133.

I.	The Extension of Citizenship; the Decline in Population and its Causes	147
II.	The Decline of Religion and Morals; the Growth of the Equestrian Class	151
III.	The Assemblies	154

FOURTH PERIOD.

THE OVERTHROW OF THE REPUBLIC AND THE ESTABLISHMENT OF A NEW MONARCHY,
133–44 B.C.

CHAPTER I.

PAGE

THE REVOLUTION OF THE GRACCHI AND THE REACTION, 133–111.

I. The Economic Reform of Tiberius Gracchus . . . 158
II. The Revolution of Gaius Gracchus 165
III. The Reaction and the Overthrow of Gaius Gracchus . . 173

CHAPTER II.

THE OLIGARCHY, THE EQUESTRIAN COURTS, AND THE CITIZENSHIP OF THE ITALIANS, 111–88.

I. The Misgovernment of the Oligarchy and the Rise of Gaius Marius 178
II. The Laws of Drusus and the Citizenship of the Italians . 186

CHAPTER III.

THE SUPREMACY OF THE DEMOCRATS; THE DICTATORSHIP AND CONSTITUTION OF SULLA, 88–79.

I. The Laws of Sulpicius and the Supremacy of the Democrats 193
II. The Dictatorship of Sulla, the Popular Assemblies, the Senate, and the Magistrates 198
III. The Judiciary and the Municipal Government. General Observations 205

CHAPTER IV.

The Restoration, the Extraordinary Military Commands, and the Catilinarian Conspiracies, 79–62.

		PAGE
I.	The Restoration	211
II.	The Extraordinary Commands of Pompeius	217
III.	The Catilinarian Conspiracies	222

CHAPTER V.

The First Triumvirate and the Conference at Luca, 62–52.

I.	The First Triumvirate and the First Consulship of Caesar	232
II.	The Rule of the Triumvirate	239
III.	The Conference at Luca, the Second Consulship of Pompeius and Crassus, and the Reign of Anarchy	244

CHAPTER VI.

The Civil War and the End of the Republic, 52–48.

I.	The Rupture between Pompeius and Caesar	251
II.	The First Two Dictatorships of Caesar and the End of the Republic	257

CHAPTER VII.

The Rule of Caesar, 48–44.

I.	The End of the Civil War and the Establishment of a New Monarchy	264
II.	The Republican Magistrates, Senate, and Assemblies in the New Monarchy	269
III.	The Municipal and Imperial Reforms of Caesar. General Observations	274

ROMAN CONSTITUTIONAL HISTORY.

FIRST PERIOD.

THE FORMATION OF THE ROMAN STATE, 753-509 B.C.

CHAPTER I.

INTRODUCTION.

I. The Italians.

The Italians. — The Italians belonged in the main to the Mediterranean race. They had dark eyes and hair and were of comparatively low stature. In language they were more closely related to the Celts than to the Greeks, and had little in common with the Etruscans.

They entered Italy from the North, and may for a considerable time have dwelt in the plains of the Po. In very early times they crossed the Apennines and settled in central Italy. They had at that time separated into two main divisions, the Latins and the Umbro-Sabellians; and they spoke dialects which formed two quite distinct groups.

The Latins perhaps preceded the others and settled on the west coast in the neighborhood of the Tiber. The Umbro-

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Sabellians spread over the middle and eastern part of central Italy. They devoted themselves largely to the rearing of cattle, for which their country was well adapted; they did not become so fixed in their habitations as the Latins, and in fact continued their migrations well into historic times. The chief divisions of the Umbro-Sabellians were the Umbrians, the Sabines, and the Samnites.

II. The Latins.

The Latins. — The Latins, who were destined to influence so profoundly the history of the world, inhabited the naturally unwholesome and not very fertile district of about seven hundred square miles, situated between the Anio, the Tiber, the Volscian mountains, and the sea. As compared with the Umbro-Sabellians, they paid more attention to the cultivation of the soil, and formed permanent settlements. They engaged in trade, and reached at an early period a higher plane both in industry and in political organization than the Umbro-Sabellians.

The Family. — The monogamic family and the clan, or group of families, were institutions common to all branches of the Italians. The Latins developed them in their own way and preserved them with characteristic conservatism. The Latin family (*familia*) in a restricted sense consisted of the father (*paterfamilias*) and mother (*materfamilias*); their male descendants in the male line (*agnati*), with their wives; and their unmarried daughters and female descendants in the male line. Persons who were adopted belonged to the families and clans of their adoptive fathers. The father alone was independent (*sui juris*) in private affairs; the others were subject to his authority (*alieni juris*). He was the lord, judge, and priest of the family. He might in exceptional cases punish his wife even with death, and he

had the authority (*patria potestas*) under certain restrictions to expose, sell, or kill his children. He owned, managed, and disposed of the family property.

The Clan. — The Latin clan (*gens*) comprised the free male descendants on the male side from a common ancestor, the free female descendants through the male line who remained unmarried, and all the women who were married to members of the clan (*gentiles*). In a certain sense dependent and protected persons (*clientes*) also belonged to the clan. The members of a clan had a common name, a common worship, and mutual rights and duties. They were under obligation to assist and protect one another, and they exercised a certain jurisdiction, particularly in the case of minors and insane persons. Perhaps no one wielded in the clan such an extensive authority as the father did in the family. The powers of the father and the clan were probably greater in the prehistoric times, since the state and the claims of individual liberty tended to diminish them.

The members of a clan seem to have occupied lands in common, and to have built one or more villages. Each family received a portion of the lands, and the clan retained a common tract, which down to a somewhat late period was managed as a joint possession.

The Canton. — The clan was too small a body to be an independent community or state (*populus, civitas*). For the sake of greater safety several clans that had settled in the same locality united and formed a canton (*pagus*). The canton was the incipient Italian state. It had as a centre a height (*capitolium*) or stronghold (*arx*), which contained the seat of justice and the sanctuary of the canton, and served as a place of assembly and of refuge. This centre was enclosed and fortified by a wall, and became under favorable circumstances the nucleus of a town.

Alba Longa was the oldest and most important canton centre. It was regarded as the primitive seat of the Latins and as the mother city of Rome and a number of other communities. Other ancient centres were Lanuvium and Tusculum.

The Latin League. — A common origin, language, and religion, and similar institutions, led the cantons to establish leagues. The Latin league in the eighth century B.C. was perhaps not the first nor the only one, but it alone possesses any historic importance. According to tradition, it had thirty members. Once a year these met on the Alban Mount and celebrated the Latin festival (*feriae Latinae*). An ox was sacrificed to the Latin Jupiter (*Juppiter Latiaris*), and portions of the roasted victim were distributed among the members. The assemblies of the league were held at the foot of the mountain, near the source of the Ferentina. Besides mutual protection, the purpose of the league was to place on a legal basis intermarriage and commercial intercourse between the allied communities. The scope of the federal powers cannot be determined, but it was not comprehensive; and the leading canton, Alba Longa, may have had simply an honorary presidency.

III. The Romans.

The Site of Rome. — The site of Rome was not wholesome, but it offered the advantages of a strong central position. A city built on the hills rising from the banks of the Tiber, about fourteen miles from its mouth, would naturally become the centre of the river trade. It was far enough from the sea to be safe from pirates, yet near enough to have a convenient harbor. While it was close to the Etrurian and Sabine territories, and necessarily served as a frontier fortress of Latium, it reaped at the same time the benefits of

trade and intercourse with those peoples. Moreover, from its central location, it might be able to command the Mediterranean and its coasts.

The Ramnes and the Tities. — Rome seems to have been one of the younger cities of Latium, and may have been founded about the middle of the eighth century B.C. The tribe (*tribus*) of *Ramnes*, or Romans, built a town on the Palatine hill (*Palatium, mons Palatinus*), and surrounded it with a wall which formed an irregular square (*Roma quadrata*). As the population increased, one suburb grew up after another, and the town became a city of seven mounts (*Septimontium*), or rather, localities. Such were the beginnings of Rome.

On the Quirinal hill (*collis Quirinalis*), a short distance north of the Palatine, another independent community existed at that time. Its inhabitants were probably Sabine and may be identified with the traditional tribe of *Tities*. They had a capitol of their own (*Capitolium vetus*) and a sanctuary sacred to Jupiter, Juno, and Minerva.

In very early times the Ramnes and Tities united and formed one state. They made the Capitoline hill (*Arx et Capitolium, mons Capitolinus*) their stronghold, and established on it a place of meeting (*area Capitolina*) for the popular assembly. In the new state no trace of Sabine institutions can be found, except in the domain of religion, where the Titian brotherhood (*sodales Titii*) may be mentioned.

The Luceres. — Some time after the union of the Ramnes and Tities a settlement was made on the Caelian hill (*mons Caelius*), east of the Palatine. The new settlers were possibly the tribe of the *Luceres* of Roman tradition. They belonged to the Latin nation and may have been exiles from Alba Longa. They also became a part of the city of

Rome, but have left no vestige of separate political institutions.

The members of the three former communities enjoyed equal rights in the new state. The order of precedence was Tities, Ramnes, Luceres. The people of this greater Rome (*populus Romanus Quiritium*) distinguished themselves from the other Latins by their greater attention to trade and commerce. Because of their commercial and strategic advantages they became superior to the inhabitants of every other city in Latium. They seem at first to have developed independently of the Latin league, though they probably had the right of trade and intermarriage with the citizens of the federal communities.

CHAPTER II.

THE ORIGINAL CONSTITUTION OF ROME.

I. Classes of the Roman Population and Organization of the Curies.

Classes of the Population. — The Roman population at this early period consisted of citizens, dependent persons (*clientes*), slaves, and foreign residents of various descriptions.

The Citizens. — The body politic (*populus*) comprised two classes — the citizens and the clients. Citizenship depended on relationship. The citizens (*patricii, cives*) were primarily the free and legitimate members of the families belonging to the ancient patrician clans of the three tribes (*tribus*), — the Tities, Ramnes, and Luceres. They were equal before the law and formed one class.

Rights of Citizens. — All male citizens that were of age had certain rights and duties. Their political rights (*jura publica*) consisted of the right of suffrage in the popular assembly (*jus suffragii*); of holding office when appointed by the king (*jus honorum*); of appealing, with the permission of the king, from any lower court to the popular assembly (*jus provocationis*); of participating in the public worship and holding religious offices (*jus sacrorum, auspiciorum, sacerdotiorum*).

Their private rights (*jura privata*) were: to contract a legal marriage according to Roman law (*jus conubii*), in consequence of which the husband had the peculiar Roman authority over his family (*manus* and *patria potestas*) and

his children were Roman citizens; to acquire, manage, and dispose of property according to Roman law (*jus commercii*); to sue (*jus actionis*), with the liability of being sued; and to make a testament and inherit property (*jus testamenti faciendi* and *hereditatum*). Furthermore, they possessed various other rights and advantages, which were secured through treaties with foreign states or otherwise.

Duties of Citizens. — The civic duties were: to serve in the army; to aid in constructing public works — ditches, walls, and buildings; to undertake the king's commissions; and to pay the public taxes. Military service was the most important of the obligations of the citizens. Perhaps their collective name of *Quirites* means warriors (from *quiris*, a spear). The army consisted possibly of three hundred horsemen (*celeres*), commanded by one or more officers (*tribuni celerum*), and three thousand infantry, in charge of three officers (*tribuni militum*). The legion (*legio*), or phalanx, of infantry was levied in case of need; the horsemen formed a permanent corps, and were consequently held in higher esteem.

The Clients. — The clients were slaves that had practically been freed, resident foreigners who were granted public or private protection, and the inhabitants of places conquered by Rome. A client belonged to the family and clan of his patron (*patronus*) and participated in the religious worship. In the family he occupied almost the position of a son, and was subject to a similar authority. He might be allowed by his patron to possess and till a parcel of land, was obliged to follow him in war, and in general to obey and assist him. The relation of client and patron was hereditary, and was based, not on statute law, but on good faith and custom.

The client was, strictly speaking, not a citizen. In law-

suits he had to be represented and defended by his patron. He accompanied his patron to the popular assembly and took part in the religious ceremonies, but was probably not allowed to vote.

The Slaves and Foreign Residents. — In later times the slaves were emancipated in large numbers; thus they became regularly citizens, and exercised a vast influence on social, economic, and political conditions. While they were slaves, however, they remained as destitute of legal rights as the soil they trod on. They were animals that happened to have the faculty of speech; pieces of property incapable of having civil rights or duties.

The foreign residents were refugees, or laborers, or the former inhabitants of Latin towns that had been conquered by Rome, but had not been incorporated with the state.

Organization of the Curies. — The body of citizens was divided into thirty curies, which may be compared to the wards of a city. The members of a *curia* (*curiales*) formed to some extent a corporation. Each curia had its own hearth and sanctuary and a hall (*curia*) where the members met for a kind of family worship (*sacra curionia*) or for feasting. Its affairs were in charge of a director (*curio*), assisted by a priest (*flamen curialis*) and an attendant (*lictor curiatius*). Originally all the curies had their respective halls in one building, or aggregate of buildings (*curiae*), in charge of a general director (*curio maximus*), who during the royal period may have been the king himself. They had a common worship and a common guardian divinity (*Juno Curis*). The worship of the curies was public, not private like that of the clans, and formed a part of the state religion.

In historic times the curies had an almost exclusively religious character, and the directors were priests. But it

seems probable that originally they were employed also for administrative purposes, — for example, in the case of assessments and of military levies.

II. The Assembly of Curies.

Membership of the Assembly. — Three organs of the Roman government — the popular assembly, the senate, and the king — were to a certain extent coördinate, and in general constituted the sovereign power of the state.

The citizens, or patricians, alone were properly members of the popular assembly. The clients were passive in political affairs, though perhaps any one, citizen, resident foreigner, or slave, was permitted to attend the informal meetings of citizens.

Procedure of the Assembly. — The assembly could legally be summoned only by the king or a regent (*interrex*), and might meet either in an informal way, in a crowd (*contio*), to hear announcements and receive official communications, or in a formal way, each citizen in his own division (*curia*), to take legal action. The place of meeting was perhaps the open space in front of the *curia Calabra* on the Capitol. The official who had called the meeting presided. He alone had the right to address it, but he might allow others to speak either for or against his proposition. In the case of a formal meeting (*comitia*) he put the question (*rogatio*); and the people had no opportunity to offer amendments, but could simply vote for or against the measure. In the earliest times there was no formal voting, but later one curia (*principium*) was chosen by lot to cast its vote first. The result was announced, and then the other curies voted. The majority of the members decided the vote of each curia, and the majority of the curies decided the question.

A law (*lex*) passed in this way, and ratified by the senate,

was in a certain sense an agreement, a contract, between the people and the king, and implied joint action, not simply the command of a sovereign king.

Powers of the Assembly. — The assembly of curies had various important elective, legislative, and administrative powers, as follows: —

Election of King. — When a regent (*interrex*) had selected a man for king, he submitted the name to the assembly for sanction or rejection. The assembly had no opportunity to vote for another candidate, nor, so far as known, did it ever exercise its power to reject.

The Curiate Law. — The assembly had the right and duty, by passing a special law (*lex curiata*), to pledge its loyalty to the new king after his election, and to confer on him the supreme authority (*imperium*), particularly in military matters. No instance is known where the assembly refused to pass the curiate law, and as a consequence it lost in the course of time all power to refuse.

Citizenship. — The admission (*adlectio, coöptatio*) of one or more clans into the patriciate, that is, into the Roman state, required the sanction of the assembly. Perhaps the assembly had the power also to banish a citizen or clan, and to restore an exile to his former position in family, clan, and state.

Adoption. — The adoption (*adrogatio*) of an independent (*sui juris*) citizen by another who belonged to a different family or clan was authorized by the assembly. It affected the maintenance of the worship of the two families or clans concerned, and hence was subject also to the control of the pontifical college (*pontifices*).

Testaments. — Wills or testaments might be made before the assembly. A citizen obtained in this way the largest

number of witnesses, and also great privileges in the selection of heirs and the disposal of his property. This form of testament early disappeared, however, and the assembly practically lost the important right of sanction.

Appeals. — In a case of high treason (*perduellio*) or a similar crime, the assembly had the power to pardon or condemn the defendant, if with the permission of the king he appealed from the sentence of a special judge (one of the *duoviri perduellionis*). Only the citizens proper, or patricians, were allowed to appeal.

Declaration of War. — The assembly possessed the right to coöperate with the king and senate in declaring war against a people that had concluded a treaty or alliance with Rome. All other peoples were in theory enemies, and the king might attack them at discretion.

Legal and Constitutional Changes. — The assembly had the power to ratify every change or amendment of the existing laws or constitution, and even every dispensation from the law in a particular instance. Yet this seemingly comprehensive power was in practice not so very important, since legislation covered but a limited field as compared with administration. Taxation, for example, and the appropriation of public funds belonged regularly to the administrative sphere.

III. The Senate.

Origin and Membership of the Senate. — The second organ of the sovereign power was the senate.

Perhaps in prehistoric times an elder had charge of each clan, and the elders of all the clans constituting the Roman people formed the council or senate (*patres, senatus*). Such an origin would at any rate help to explain the powers and influence of the Roman senate.

The senators were chosen for life by the king, who was free to select any patrician, or citizen. The normal number of members in an Italian senate was one hundred. At Rome the number was perhaps increased with the growth of the state, and each of the three tribes (*tribus*) sent one hundred representatives to the senate of normally three hundred.

Procedure of the Senate. — The senate was convened by the king or regent, and could not meet of its own accord while a king was on the throne. It assembled in a consecrated place (*templum*), and a senate-house is said to have been built by Tullus Hostilius (hence called the *curia Hostilia*). The official who convened the senate laid before it the business on hand, and then, according to a fixed order of precedence, requested each senator to express his opinion. No senator might speak unasked, and there was no debate.

Powers of the Senate. — The senate was the only permanent organ of the state. It was the ultimate possessor of the supreme authority (*imperium*) and the auspices (*auspicia*); it was the guardian of constitutional law and custom; and it formed the council of state (*consilium regium*).

The Interregnum. — Whenever the throne became vacant, the government of the state and its right of communication with the gods reverted to the senate. The senators met as soon as possible, and seem to have been divided into ten approximately equal sections (*decuriae*). Then, in accordance with an order determined by lot, each senator in turn became a regent (*interrex*) and exercised all the royal powers, so far as his limited term of five days permitted. The number of regents varied on different occasions. When the last regent, probably according to an understanding with the senate, had found a desirable candidate, he submitted his choice to the assembly for sanction or rejection.

This institution of the interregnum was peculiar to the

Romans. It invested the senators with some of the royal dignity and temporarily with royal prerogatives.

Power of Ratification. — The senate had the power (*patrum auctoritas*) to ratify or reject the election of a king, the declaration of war, and the laws passed by the assembly. In other words, it had an absolute veto. It was bound to guard the existing constitution, the organic institutions, and the religious and political obligations of the state.

Council of State. — It was natural for the king to consult beforehand a body possessing such powers, and in the earliest times the senate became an advisory board, a royal council (*consilium regium*). Accordingly the king was bound by custom, though not by statute law, to ask its advice, for example, respecting the imposition of taxes, the construction of public works, and the disposition of conquered territory. But he was not obliged to follow its recommendations.

The importance of the senate was further increased by the fact that the deputies of the king (pp. 17–18) were senators.

IV. The King and his Deputies.

Election of a King. — The king was the third, and practically the most important, organ of the state.

When the throne had become vacant, an interrex nominated a citizen who was of age, and sound in body and mind, for king, the assembly of curies regularly elected him, and the senate ratified the election. He was then declared king by the interrex. He took the auspices to see whether he was acceptable to the gods. If so, he entered on his office. Lastly, he asked the assembly of curies to confer on him the supreme authority (*imperium*).

Royal Insignia and Attendants. — The king wore a purple mantle in war and a purple toga in peace. He sat on a

throne of ivory. When he appeared in public on foot or in a chariot, he was preceded by twelve attendants (*lictores*) who carried each a bundle of rods with an axe in it (*fasces*), and walked in single file.

Unlike the republican magistrates, the king had an official income. A part of the public domain was cultivated for his benefit, and the produce was given him.

Powers of the King. — The king was the chief factor in legislation, the high priest, the supreme executive and judge of the state. He was not supposed to have a number of distinct powers, but paramount civil and military authority in general (*potestas, imperium*). While practically he had absolute power and was irresponsible, he was yet, before gods and men, bound by custom to respect the privileges and rights of the people and the senate; and whatever ordinances he issued arbitrarily must be obeyed during his reign, though they became null and void at his death.

Legislative Powers. — The king had the exclusive right to summon the people or the senate, to lay business before either body, and to require formal action (*jus cum populo, cum patribus agendi*). He naturally proposed only such measures as he approved, and thus had a power more efficient than an absolute veto, because he could exercise it with less difficulty. In other words, he had the same legislative power in all spheres as the American congress has in the federal sphere, with the exception that the people and the senate both had an absolute veto. In regard to constitutional amendments, he had a power quite similar to that of congress.

Administrative Powers. — In his administrative or executive capacity the king was not entitled to alter the law or to dispense with it in particular cases. But customary and statute law was of very limited extent in early times, and

left him by far the larger part of the modern legislative field.

Religious Affairs. — The king alone had the power to represent the state in its intercourse with the gods. He alone was authorized to pray that the gods would by the flight of birds or other signs (*auspicia*) express their wishes in regard to a future official action, — for example, a meeting of the assembly or senate, or the departure of an army for war.

He alone could make changes in the public worship or the state religion, but only with the consent of the gods. He performed many religious functions himself, and the queen took part in some of them. If personal supervision was inexpedient, he had the power to appoint priests, and to establish colleges of priests, for the maintenance of rites, the performance of sacrifices, and the transmission of religious lore.

Military and Foreign Affairs. — The king was commander-in-chief of the army. He levied the necessary troops, organized them, appointed the officers, and directed the military operations.

He could not legally declare war against states that had entered into treaties with Rome, except with the consent of the people and the senate; but in other cases he made war at discretion, and he concluded treaties of peace or of alliance. In brief, he managed foreign affairs.

Financial Affairs. — The king also controlled the public treasury. He collected and expended the port duties, the income derived from the public domain (*scriptura, vectigalia*), from fines, confiscations, and the spoils of war. If necessary, he levied a temporary tax (*tributum*). He gave away or disposed of conquered territory, decided on the construction of public works, and ordered the people to construct them without pay.

Judicial Affairs. — As judge, the king decided at will concerning the life and death, as well as the freedom, of the citizens. But he was in duty bound to give an accused person an opportunity to defend himself; and before pronouncing a sentence, he was under obligation to hear the advice of competent men. He decided a case in person, or he determined simply whether there was just cause for action, that is, found a true bill, as a grand jury does nowadays; then he appointed and instructed a judge (*judex*) to conduct the trial and give the decision. Perhaps the latter method was the common one in civil cases, which during the royal period covered a much larger field than the criminal cases. It was employed also when the king wished to allow an appeal in certain cases to the assembly of curies. He did not have the sovereign power to pardon.

Power of Appointment. — The king possessed all the official authority in the state, and could freely authorize others to act on his behalf. He appointed the city prefect, the commanders of the cavalry and infantry, and financial and judicial deputies, all of whom held office during his pleasure; also various clerical deputies.

Civil and Military Deputies. — When the king was absent from Rome, he was represented by the city prefect (*praefectus urbi* or *urbis*), who was the guardian of the city (*custos urbis*). The powers of this official depended on the orders of the king and on circumstances. Probably he had the authority to call the people to arms, to consult the senate, and to exercise a certain jurisdiction.

The commanders of the cavalry (*tribuni celerum*) and of the infantry (*tribuni militum*) were military officers without any political functions or importance.

One or two police officers (*quaestores parricidii*) were permanent assistants of the king. They did not decide

criminal cases, but investigated crimes, especially murder (*parricidium*), and tracked the guilty parties.

One or two special judges might be appointed by the king to try a case of high treason or a similar crime (hence called *duoviri perduellionis*), and one of them conducted the trial and passed judgment. If the defendant was found guilty and was granted an appeal by the king, the judge prosecuted him before the assembly of curies.

Colleges of Priests. — Several colleges of priests assisted the king and performed important public functions. They were naturally more permanent and independent than his lay deputies.

The three pontiffs (*pontifices*), later six, formed a college of experts that had charge of the calendar with its festivals and its classification of days as lawful (*fasti*) and unlawful (*nefasti*) for judicial and political transactions.

The college of three augurs (*augures*), afterward six, consisted of men who were skillful in interpreting the significance of lightning, the flight of birds, and other signs indicating the will of the gods.

It was the duty of the college of twenty fetials (*fetiales*) to perform and transmit various religious ceremonies in connection with treaties, declarations of war, and other international transactions.

During the reign of the last king a college of two priests (*duoviri sacris faciundis*) was established to preserve and interpret the Sibylline books.

CHAPTER III.

THE LATER ROYAL CONSTITUTION.

I. The Plebeians and the Younger Clans.

Origin and Status of the Plebeians. — Just as the status of the clients had been developed in the main from that of the slaves; so, it would seem, the status of the *plebs*, or multitude, was developed from that of the clients. Some clients became personally independent because the families and clans of their patrons died out; others gained their freedom because their patrons voluntarily surrendered their rights. Still others might become directly dependent on the king or the community. In such cases they had no private person as their patron, and simply belonged to the multitude, or were plebeians.

While the clients proper were at law wholly dependent on their patrons, the plebeians obtained the right to acquire and dispose of property and to sue in their own name. They possessed no political rights, nor did they perform any regular military service; but they paid an arbitrary tax and helped to construct public works.

Increase of the Plebeians. — The conquests of Rome increased the number of the plebeian class and hastened its development. The persons and property in a town that had been captured or had surrendered unconditionally (*deditícii*) belonged to the state. Nevertheless, the inhabitants were usually allowed to remain in the town and to occupy a part, perhaps two-thirds, of their former lands.

The rest of the private lands and the public lands of the town became in fact, as well as in law, Roman public domain. The noble clans of the town might be admitted to the Roman patriciate, or citizenship. In that case the common people remained the clients of their old patrons or became Roman plebeians. In other cases all the inhabitants might become only clients or plebeians at Rome.

Tarquin the Elder. — The Roman population was increased also by immigrants and exiles from other communities. All were received hospitably. According to tradition, Tarquin the elder emigrated from Etruria to Rome during the reign of the fourth king. Although he was an Etruscan, he rose quickly in influence and became the fifth king of Rome. Since the Roman subjects were constantly on the increase as compared with the citizens, he considered it desirable to require military service of them, in order to relieve the old citizens, strengthen the state, and increase the royal power.

The Younger Clans. — Tarquin did not change the number or the names of the tribes; but, probably with the consent of the popular assembly, he admitted into each tribe as many new clans as it contained of old, and made many new citizens senators. The new clans were called the younger (*gentes minores*) as contrasted with the old clans (*gentes maiores*), and the new members of the senate were named the senators of the younger clans (*patres minorum gentium*). The three tribes could now each furnish two centuries of horsemen in place of one, or six centuries in all. The new horsemen were designated the later, or second, of each century (*Tities, Ramnes, Luceres posteriores* or *secundi*), and the old members the former, or the first (*Tities, Ramnes, Luceres priores* or *primi*).

II. The Constitutional Reforms of Servius Tullius.

The Four Servian Districts. — The admission of the new clans still left the plebeians outside the regular military organization of the citizens proper, and hence it was not an adequate measure. The plebeian class continued to increase, and was able to furnish the additional soldiers needed by the warlike state. Accordingly the next king, Servius Tullius, is said to have introduced for military purposes a general and thorough reform.

As an initial step, the public lands which the subjects of Rome had been permitted to retain and occupy, may have been given them in full ownership, in order to make them trustworthy soldiers. Then Servius Tullius divided all the Roman territory in city and country, which was owned by private individuals, into four districts (*tribus*): *Palatina; Suburana,* including the Caelian hill; *Collina,* including the Quirinal; and *Esquilina,* the suburb between the Quirinal and the Caelian. Probably he tried to make the districts equal in extent and in population. He placed a tribune (*tribunus* or *curator tribus*) at the head of each, and instituted the rule that troops were to be levied, taxes were to be imposed, and a census was to be taken on the basis of these districts, which consequently superseded the curies in administrative affairs.

The Census. — According to the new census, all the free persons who dwelt in the districts and belonged to the Roman state, whether freeholders (*assidui* or *locupletes*) or not (*proletarii*), whether patricians, clients, or plebeians, were to be enrolled and assessed from time to time. The freeholders were enjoined to give an account of their families and real estate, the others were required to state their occupation and personal status.

The Five Classes. — The freeholders were then divided into five classes, according to the amount of each one's real estate. Sons (*filii familias*), who in law could own nothing, were placed in the same class as their fathers. Persons owning (in round numbers) twelve acres or more (20 *jugera*, long afterward valued at 100,000 *asses sextantarii* = $2200) were put in the first class; the owners of from nine to twelve acres ($1650–2200), in the second class; the owners of from six to nine acres ($1100–1650), in the third class; the owners of from three to six acres ($550–1100), in the fourth class; those owning from one to three acres ($183–550), in the fifth class. Possibly all the patricians, or old citizens, were placed in the first class, and the plebeians and clients were enrolled mainly in the four lower classes.

The Centuries of Infantry. — The classes were divided into centuries. The members of the first class formed eighty centuries of infantry. The second, third, and fourth classes formed twenty centuries each; the fifth, thirty centuries. The organization of centuries probably represented in a general way the conditions of the time; and it is noticeable that the comparatively rich members of the first class formed so large a proportion of the population.

One-half of the centuries of infantry in each class consisted of juniors, men not less than seventeen nor more than forty-six years old, who were required to serve in the field. The other half consisted of seniors, who were not less than forty-six nor more than sixty, and formed a reserve for the protection of the city. Each century of juniors may have contained one hundred men; each century of seniors would then contain about fifty men.

Those who did not own the minimum of one acre (*proletarii*) were passed by in the formation of the regular centuries. They furnished two centuries of workmen (*fabri tignarii* and *aerarii*), two of musicians (*liticines* or *tubicines*,

cornicines), and one of unarmed substitutes. Later all not properly belonging to the four preceding formed the century of substitutes (*accensi velati*).

Centuries of Cavalry. — Twelve centuries of cavalry were added to the six former centuries (p. 20), making in all eighteen hundred men. The old centuries remained patrician, the new consisted of patricians and plebeians. All the horsemen seem to have belonged to the first class and were juniors. They received $220 each for the purchase of horses (*aes equestre*) and about once a year $44 each for the maintenance of their horses (*aes hordiarium*).

The infantry, on the other hand, were obliged to equip themselves at their own expense. They were in this way taxed proportionately, in so far as the equipment of the first class cost more than that of the second and a great deal more than that of the fifth.

Military Character of the Reform. — The new organization of five classes and one hundred and ninety-three centuries was unquestionably of a military character and had a military aim. The centuries may at first have been almost identical with the companies of the army. In the course of time, however, the population and the amount and distribution of landed property changed, while the number of centuries and the amount of land required for admission to each class remained unchanged. As a result the Servian organization then conformed no longer to existing facts, and had effects not contemplated by its originator.

Political Consequences of the Reform. — Notwithstanding the military character of the reform, it might seem reasonable that the king should henceforth consult, not the assembly of curies, but the centuries, or the soldiers, in regard to a declaration of war; and that on the eve of a battle testaments should be made in the presence of the centuries rather

than in the curiate assembly. There is, however, no evidence to show that this was the case during the royal period.

Plebeians and Clients. — The reform nevertheless involved important political changes, because the military service was so closely connected with citizenship. The plebeians did not obtain political rights, but they became citizens and enjoyed most private rights. They probably became full owners of the public lands which they had formerly occupied. They enjoyed the right of commercial intercourse; and, while they did not have the right of intermarriage with the patricians, they could enter into legal marriages among themselves, and had as fathers the paternal authority, and their children were Roman citizens.

The clients also were placed in the centuries as citizens, and attained a more independent position. They may have become the owners of the lands which they had received from their patrons.

While the original constitution was based on relationship, or clanship, the Servian military organization was based mainly on the possession of land; and, in establishing a certain gradation of duties, it introduced a plutocratic principle which became operative when the centuries began to exercise political rights.

III. The Progress of Rome and the Abolition of the Monarchy.

Extension and Improvements of the City.— The city of the Tities, Ramnes, and Luceres (*urbs quattuor regionum*) had continued to prosper; and Servius is supposed to have built a new ring wall, of which the present remnants are probably a restoration. It included the Aventine, Caelian, Esquiline, Viminal, Quirinal, Capitoline, and Palatine hills. The

pomerium, a narrow belt of land along the inside of the entire old wall, or embankment, which formed the augural limit (*finis urbani auspicii*), and in republican times also the civil boundary of the city, did not follow the Servian wall throughout; thus the Aventine, for instance, was inside the ramparts, but outside the *pomerium*.

The valleys were drained, a new place of meeting (*comitium*) for the popular assembly was established east of the Capitoline, the historic market place (*forum Romanum*) was opened, and the Capitoline temple of Jupiter was begun.

Extension of Territory. — The Roman territory was also enlarged. Alba Longa was perhaps the most distant acquisition. The extent of the Roman conquests is indicated in a general way by the position of the independent towns of Fidenae, Nomentum, Tibur, Gabii, Tusculum, Bovillae, Ardea, Lavinium, and Laurentum. Rome had in addition a strip of territory along the right bank of the Tiber, below the city.

Roman Leadership in Latium. — As the conqueror of Alba Longa, Rome is said to have claimed, and at any rate obtained, the leadership in the Latin league. It did not join the league as a single member, but entered into an alliance with it for the sake of mutual aid and protection against other nations. Perhaps the Roman commander-in-chief held the command of the federal, as well as the Roman, troops. Every citizen within the league was entitled to settle anywhere in the domains of the federal towns. The right of commercial intercourse was guaranteed to all members. Probably the right of intermarriage also existed between the corresponding classes in the different towns. The several communities were, however, to remain independent and sovereign, and the league of the thirty communities was to retain its autonomy.

In this way, not only the political foundations of Rome, but also the foundations of her foreign dominion, were laid during the royal period.

Abolition of the Monarchy. — In spite of the elective character of the Roman monarchy, the later kings seem to have endeavored to found a dynasty. Tarquinius the elder was, according to tradition, duly elected king, but attempted to make the royal power hereditary in his family. His son-in-law, Servius Tullius, usurped the royal power; and his son, Tarquin the Proud, seized the throne by virtue of his hereditary right, and is represented as a typical tyrant. He disregarded the Servian constitution, did not convene the people, or consult the senate, or decide capital cases with the assistance of counselors, and considered himself the lord and master of the state.

As a result, the patrician clans seized an opportune moment when one of Tarquin's sons had committed an outrage, and with the assistance of the plebeians banished the king and his clan, and abolished the monarchy. It was decreed by law that any one who aimed at royal power should be punished with death and his property be confiscated; and the people were made to swear that they would never allow any one to be a king at Rome.

Tyranny was in Greece and Rome an intermediate stage in the development from a monarchical to a republican constitution.

SECOND PERIOD.

THE EQUALIZATION OF THE ORDERS, 509–287 B.C.

CHAPTER I.

THE REPUBLICAN CONSTITUTION, 509–494 B.C.

I. The Consuls and the Dictator.

Establishment of the Republic. — When the clans had driven the king away, they probably had recourse to an interregnum. By this means they retained the leadership in the revolution and gained time to decide on the general principles of the new constitution. They could also reach an agreement with the plebeians and obtain their assistance for the immediate future. Though conservative, they introduced general and far-reaching changes in regard to the magistracy, the senate, the centuries, and the assembly of curies. The new order of things was probably established by a series of laws; and the first regular magistrates secured the passage of the curiate law (*lex curiata*), modified to suit the new conditions. Henceforth nearly all the magistrates with supreme authority, and some others, were obliged to procure the sanction of this law.

Chief Aim of the Revolution. — The primary aim of the patrician clans was to render the magistrates less powerful and less dangerous. Still, as they believed in a strong and vigorous government, they did not limit essentially the

general powers of the magistrates, or contract their sphere of action, but left an aggregate of powers truly royal in extent and character. They accomplished their design by establishing a collegiate and annual tenure of the supreme magistracy.

Collegiate Tenure. — It was enacted that in place of one king there should be two supreme magistrates. These were first called generals (*praetores*), or judges (*judices*), later colleagues (*consules*). The two consuls were vested with exactly the same powers, and had in law identical spheres of action. Nevertheless, they did not exercise their powers jointly as a board of two, but separately. They might govern or command by turns, or agree to occupy different fields in war, or decide by lot on some division of their functions; but this was simply a matter of practical convenience; in law both continued to possess full authority.

The object of having two executives was to check one by means of the other and thus to control both. For this reason each consul was given power (*jus intercedendi*) personally to cancel almost every official act of his colleague while it was in progress. This institution of coördinate supreme authorities was an original Roman idea. The fact that such a contrivance for producing deadlocks worked at all is an excellent proof of the political capacity of the Roman people.

Annual Term. — The consuls were not to remain in office longer than one year, and at the expiration of this term they legally ceased to be magistrates. The short term was a great limitation on the consular power both for good and evil. It tended to prevent the establishment of a tyranny, but it also hindered, as far as the consuls were concerned, the design and execution of extensive campaigns in war, of large and statesmanlike reforms in peace. The consuls

lacked time — one of the first elements of political power. On retiring from office, moreover, they could be prosecuted for official misconduct, and were thus amenable to the laws.

The principles of collegiate and annual tenure — the opposite of individuality and continuity — are the characteristic and fundamental ideas which distinguish the republic from the monarchy.

Consular Powers and Insignia. — In spite of the preceding and other limitations, the consuls, like the kings, were the chief factors in legislation, the highest administrators and commanders, and in a certain sense the supreme judges of Rome; and they always remained the highest magistrates of the republic.

As compared with the royal splendor, the outward state of the consuls was simple: they wore togas with purple borders, sat on curule chairs, and ordinarily went on foot when in the city; they had, however, twelve lictors each.

Legislative Powers. — Each consul had the power to convene the senate and the assemblies of curies and centuries, to propose laws, and to submit them to popular vote. He had, in brief, the royal legislative powers, but his administrative powers — religious, financial, and judicial — were restricted in various ways.

Religious Affairs. — The consul, as well as the king, had the power and privilege of taking the auspices, and offering prayers and sacrifices to the gods in order that he might obtain their sanction of official acts; but he was deprived of the superintendence of the public worship and the guardianship of the state religion (p. 32).

Financial Affairs. — The consul retained the supervision of the public treasury and of the archives. He had even the authority to appropriate public funds on his own responsi-

bility. The immediate charge of the treasury was, however, taken away from the consuls and intrusted to their two assistants, the quaestors, who served as a means of control upon their superiors.

Right of Appeal. — The law in regard to appeal, carried by Publius Valerius Poplicola in 509, contained a very important limitation of the consular authority. It provided that within the mile limit, that is, within the city and usually within one Roman mile (4854 feet) from the Servian wall, the consul must allow every Roman citizen condemned to death (and perhaps those sentenced to corporal punishment) to appeal to the people. Still, appeal was not granted in civil cases, or, for instance, against arrest and imprisonment, or to offenders against the state religion, or in any case to women.

Effect of the Law of Appeal on the Consular Authority. — It was not expedient that the supreme consular authority should come into conflict with the sovereign power of the people, and hence a consul did not act as judge where the right of appeal existed, or prosecute any one who appealed. In case he transgressed the law of appeal, he committed a wicked deed (*improbe factum*), but was apparently not legally punishable.

As the consuls had in general lost the power to inflict the punishment of death within the mile limit, their lictors, when inside this boundary, laid aside the axes in the fasces (p. 15). They also lowered the fasces before the people in meetings and assemblies.

The Civil and Military Spheres. — The Valerian law introduced an important distinction between the civil and the military spheres (*domi* and *militiae*). Within the city wall, the civil law was supreme, the right of appeal was granted, and within the mile limit fundamental and permanent en-

actments were to be made. Outside the mile limit, martial law prevailed, the will of the magistrate was supreme, and there was no appeal. The space outside the city wall and inside the mile limit formed border territory, so to speak, where the civil authority (*imperium domi*) was usually exercised, but where a consul, on duly leaving the city in time of war, possessed the full military authority (*imperium militiae*).

Civil Jurisdiction of the Consuls. — In the civil jurisdiction, which at that time extended also over most of the crimes committed against citizens, the consul laid down the legal principles applicable to each case, and appointed a judge, to whom he was probably required by law to leave the decision of the case. This division of the legal procedure contributed largely to the logical clearness and precision of the later private law.

Consular Power of Appointment. — When conducting the election of his successors, a consul had the power to reject such candidates as he did not consider qualified, and he could refuse to announce, and thereby cancel, the election of a candidate.

Whenever it was necessary or expedient, the consuls appointed senators, a city prefect, and commissioners of high treason (*duoviri perduellionis*). On entering office, they chose two assistants (*quaestores*) to serve for one year.

The Quaestors. — The quaestors resembled the consuls in their collegiate and annual tenure, and to some extent in the diversity of their functions. They had the immediate charge of the public treasury and archives. They tracked murderers (hence the term *quaestores parricidii*) and other criminals, and prosecuted them before the people.

The Chief Pontiff and the King of Sacrifices. — The colleges of priests in general filled vacancies in their own ranks

(*coöptatio*). The superintendence and guardianship of the state religion were separated from every political office and intrusted to the pontifical college, which now elected a chief pontiff (*pontifex maximus*) for life. Under certain restrictions he appointed the three principal special priests (*flamines*), the Vestals, and others. He selected the king of sacrifices (*rex sacrorum*), who was to perform certain independent acts of public worship, in order that the gods in their intercourse with the state might not miss the usual royal representative. This official had no political powers and was incapable of holding any political office. The separation of the supreme authority in sacred and civil affairs thus advanced apace, and forms one of the characteristic and important features of the republican constitution.

Institution of the Dictatorship. — Some years after the establishment of the republic, a new office, the dictatorship, was instituted. The office, though not the name, was peculiar to the Romans, and was intended to revive occasionally the old royal authority. The dictator was appointed by one of the consuls, who regularly took this step when, in great emergencies, the senate had declared it desirable. But the consul was not obliged to comply with the request of the senate, nor could he be hindered in making the appointment either by his colleague or by any other authority.

The dictator had no colleague, but was bound to choose immediately an assistant, called a master of horse (*magister equitum*). His tenure of office was limited to a maximum term of six months. He was as free to allow or refuse an appeal to the people as the king had been, and he enjoyed practically the royal exemption from responsibility for his official acts. The consuls were subject to his authority and exercised their powers only with his permission.

II. The Senate and the Patriciate.

Membership of the Senate. — The Valerian law in regard to appeal was a great concession to the plebeians. Another concession affected the membership of the senate. One hundred and sixty-four plebeians are said to have been appointed senators. Some were probably admitted, but scarcely one hundred and sixty-four, or a majority. The new members were added to the old senatorial roll (hence *patres* [*et*] *conscripti*). The normal number of senators remained the same as before, that is, three hundred.

Perhaps it early became a custom to revise and complete the list of senators in connection with the census, usually every fourth year. The consul was not *ex officio* a senator, nor did he vote, but it soon became a rule to admit ex-consuls to the senate, if they did not already belong to it. They and the consuls elect were naturally entered on the roll first, and were called upon to express their opinion before the others; and the position of first senator (*princeps senatus*) was keenly coveted, because it was very influential.

The Patrician Senators. — The patrician senators did not permit the plebeians to become full members; they always reserved for themselves the prerogatives which the senate exercised as an independent constitutional organ — the right of governing the state during an interregnum and of confirming or rejecting the laws and elections carried in the popular assemblies. This right of sanction (*patrum auctoritas*) was of greater importance now than of old, on account of the larger number of laws and elections. The popular decrees in regard to cases of appeal do not seem to have needed senatorial sanction.

Influence of the Senate. — Notwithstanding these patrician reservations of power, the admission of the plebeians proved

to be a great gain to the plebeian class, because the senate assumed a different and far more influential position during the republican period. While the king had occupied a position above patrician and plebeian, the consul simply commanded to-day those he obeyed last year and those he would obey in the future. He belonged to a class — the patriciate — to which his ancestors had belonged, and to which he reflected with pride that his descendants would belong. It was almost inevitable that he should consult the wishes and interests of this class as represented in the senate. He was a single individual; the senators were the three hundred picked men of Rome. His ascendency was transient; their position was permanent. Just as in our time Queen Victoria wielded very great influence, largely because she remained in authority while premiers changed; so the Roman senate, which remained essentially the same for generations, necessarily exercised a vast influence on the consuls, with their collegiate tenure, annual term, and other limitations.

Senatorial Means of Control. — If a consul endeavored to be independent, the senate was usually able to baffle his efforts by means of his colleague or through the aristocratic colleges of pontiffs and augurs. The latter could always detect some error or omission in his auspices, for example, and thereby practically annul his official acts. In legislation the patrician senators could defeat him by their right to reject (*patrum auctoritas*). As a last resort the senate might decree that a dictator ought to be appointed. Inasmuch as it became an invariable custom that the consuls should obey such a decree, the senate had in practice the power to suspend them at pleasure.

As a result of its powers and influence, the senate was consulted in regard to legislative measures, treaties, public lands, finances, and in general all acts whose effect was to

extend beyond the consular term; and its advice was not lightly disregarded.

Closing of the Patriciate. — In the early years of the republic the Claudian clan is said to have migrated to Rome, and to have been admitted into the patriciate. It is the only instance on record of the admission of a clan during the republic. Perhaps it was formally enacted that henceforth no new members should be admitted. This policy, in connection with the exclusion of the plebeians from the right of intermarriage with the patricians, no doubt seemed at the time to guarantee to the old citizens a privileged position, to constitute them in fact an order of nobility; but in the end it weakened them and spurred the leading plebeians on to obtain for the entire plebeian class the equality of rights which otherwise they might have sought only for themselves.

III. The Assemblies of Curies and Centuries.

Membership of the Curiate Assembly. — The curiate assembly included as members all Roman citizens, but the plebeians and clients did not as yet possess the right of suffrage in the curies. They obtained it at some later epoch, and must have had it at any rate in the year 209, when a plebeian was elected general director (*curio maximus*) of the curies. When the patricians no longer formed the sole voters of this assembly, they could constitutionally neither meet alone nor pass any measures. On the other hand, the plebeians were permitted to organize themselves legally into families and clans (*stirpes, gentes*), perhaps because the curies were based on clans.

Powers of the Curiate Assembly. — The curiate assembly had been one of the three chief constitutional organs. Hence-

forward it was empowered only to pass the curiate law (*lex curiata*, p. 11), to take action in certain individual cases affecting the clans, as, for example, the adoption of an independent (*sui juris*) citizen, and to witness certain religious ceremonies. Its activity came to be more and more formal, and belonged more and more to the sphere of private, and not constitutional, law.

Manner of Voting in the Centuriate Assembly. — If the curiate assembly had retained its powers, the plebeians would no doubt have secured the right to vote in the curies and a great advance would have been made toward democracy, since all the voters were placed on an equal footing in the curies. The patricians avoided this by making the centuries the great assembly of the state.

In the centuriate assembly each century cast one vote, which was decided by a majority of the members or voters. A majority of the one hundred and ninety-three centuries was decisive. The centuries of horsemen voted first, then the centuries of infantry in the first class, next those of the second class, and so on, until a majority of ninety-seven centuries was obtained. According to Livy the two centuries of workmen voted with the first class, the three of musicians and of unarmed substitutes (*accensi velati*, also called *proletarii, capite censi*) with the fifth.

Plutocratic Character of the Centuriate Assembly. — The organization of the centuries had imposed the greatest burdens and conferred the most distinction on the rich and the well-to-do, and it now gave them the preponderance in the government. The prior vote of the equestrian centuries (*equites*) was often practically decisive on account of the Roman belief in omens, and gave them, the representatives of the rich, a predominating influence. When they and the centuries of the first class were unanimous, they formed

more than a majority and decided every issue. The wealthy classes enjoyed also another advantage: the lower classes, or the poor, increased relatively much faster in number than the rich; hence the centuries of the lower classes came to contain each a larger and larger number of voters than a century of the rich, and the value of the suffrage of the poor decreased accordingly.

Powers of the Centuriate Assembly. — Such was the aristocratic and plutocratic assembly which preëminently exercised the powers of the sovereign people. It elected the consuls, enacted laws, passed the declaration of war against states in alliance or treaty, and decided all cases on appeal — an important power now that appeal was not a matter of grace but of right, and was granted to plebeians as well as to patricians. The centuriate assembly was, however, subject to the same limitations as the assembly of curies, — the magistrates had the initiative in legislation, and the patrician senators possessed the right to sanction or reject.

General Results of the Revolution. — The patricians were the chief gainers by the revolution. They restricted the powers of the supreme magistrates and made them in large measure dependent on the senate, they closed the ranks of the patriciate, monopolized all the offices, and controlled the government in all its departments. It was a patrician revolution, and it resulted in the establishment of a patrician, or aristocratic, republic.

The plebeians secured the right of appeal in cases involving corporal or capital punishment; but were yet at the mercy of the consul, because of his power to impose fines, to arrest, and to imprison. They were admitted to the senate, but were the least respected and influential members of that body. They were conceded the right of suffrage in the centuries, but probably formed only a minority in each of

the centuries of cavalry and of the first class. Their action could in any case be controlled by the patrician magistrates or be annulled by the authority of the patrician senators (*patrum auctoritas*). Nevertheless, the advance already made was an earnest of future progress and constituted the first step toward the equalization of the orders.

CHAPTER II.

THE ORGANIZATION OF THE PLEBEIANS, 494–462 B.C.

I. The System of Occupation, the Law of Debt, and the First Secession.

Economic Measures. — The young republic had to wage war against the Tuscan league under Lars Porsena, against the Sabines, and others. These wars were burdensome; they naturally involved the destruction of Roman property, and tended to impoverish the people. Certain economic measures had been passed in the early days of the republic: large quantities of grain were bought on public account, and the trade in salt was made a public monopoly, in order to furnish the citizens with grain and salt at lower prices. These regulations were, however, of but small importance, and the general financial policy of the patrician government was unfavorable to the plebeians, who formed the middle and lower classes.

System of Farming out the Revenues. — The system of farming out the public revenues to private individuals, who paid a round sum to the state and collected practically what they could, possibly originated during the royal period. It became far more important in republican times, because it was gradually applied to most of the public revenues and involved large amounts of money. A great variety of other public transactions also was performed by private individuals, those who offered to do a piece of work for the lowest sum receiving the contract. In general only large landowners

could furnish the security required and undertake business on so large a scale. The rich made money, and the lower classes paid not only toward the support of the government, but also for the profits of the rich. In the course of time the system produced a class of contractors and farmers of taxes (*publicani*), and became a momentous and pernicious factor in the political, as well as the economic, life of Rome.

The System of Occupation. — The selfishness of the governing class was most evident in its management of the public lands. When in earlier times new territory was acquired by conquest, a colony was perhaps founded, as at Ostia; and parcels of land were usually given away to individual citizens. Another method was to allow private persons to occupy portions of the public domain until further notice. The state was entitled to reclaim at any time the tracts so occupied, and it demanded of the tenant one-tenth of the grain and one-fifth of the oil and wine produced. Public land not suitable for tillage was turned into public pasture.

The patrician government did not venture to discontinue entirely the old policy of distributing lands in full ownership, but its grants became fewer and smaller, and it adopted in the main the system of occupation. It permitted only patricians and rich and eminent plebeians to enjoy the privilege of occupation.

The patrician quaestors, moreover, were negligent or indulgent in collecting the tax of one-tenth and one-fifth, and gradually discontinued it altogether. Moreover, the tenure of the occupants became permanent and hereditary. The public pastures were managed in the same selfish way, and the custom of collecting charges for their use fell into desuetude.

The small plebeian farmers and laborers, who needed land the most, were in this way excluded, and their burdens were

indirectly increased. They had to pay the temporary tax (*tributum*) so much oftener, when the state was deprived of the considerable revenue accruing from the tenth, the fifth, and the grazing tax; and they had to pay practically a higher rate, because all their lands were taxable, but the lands that had been occupied were not.

The Law of Debt. — If by reason of the wars and the unjust and injurious financial policy a small farmer had been compelled to borrow money and could not repay, he fell a victim to the severity of the law of debt and possibly to the partisanship of a patrician magistrate. According to a very old form of contract (*nexum per aes et libram*) the borrower (*nexus*) pledged his person as security; and, if insolvent, he was seized (*per manus injectionem*) by his creditor after a respite of thirty days, and became practically the slave (*servi loco*) of the latter. He might be made to work, be whipped, imprisoned, and chained. He lost his property, and his family shared his fate. Eventually, he might be sold as a slave by his creditor.

The Distress of Plebeian Debtors. — The creditors were in general patricians, and the debtors, plebeians. The patricians were better able to obtain relief, both because of their complete organization into clans and their political privileges. They probably allowed some wealthy plebeians to occupy public lands and to use the public pastures, in order to win their support. In this way the small plebeian farmers and laborers lost their most influential allies, while the ranks of the oppressors were increased. The burdens and ravages of war, together with the unjust financial administration, reduced a great number of plebeians to distress, which was aggravated by the violence and partisanship of the magistrates. In the course of a few years of patrician domination the condition of affairs became intolerable.

The First Secession. — Believing the wars to be the chief cause of their miseries, the common people in 494 obeyed the summons to arms only when the popular Manius Valerius was appointed dictator. He was victorious in the field, returned home, and proposed reforms, but was thwarted by the senate.

Thereupon the army, which had remained before the city, marched under the leadership of military tribunes to a hill beyond the Anio, in the neighborhood of Crustumerium, and threatened to found a new city. The patricians were forced to agree to a compromise. Probably the dictator negotiated the terms. The ordinary people thenceforth called him 'the greatest' (*maximus*), and named the hill beyond the Anio the Sacred Mount (*mons sacer*). They had won a great but bloodless victory, which they ever remembered with pride and pleasure, and which influenced the history of the republic for all time.

Organization of the Plebeians. — Besides measures for remedying the urgent distress of the debtors and the founding of colonies, Valerius carried in constitutional form a law which established a new office, the tribunate, for the protection of the plebeians. He caused all the citizens to confirm it by oath, and then deposited a copy of it in a temple under the charge of two plebeian officials (*aediles*). The transgressors of the law were to be outlaws (*homines sacri*), and might be killed with impunity by any one. The law itself was called sacred (*lex sacrata* or *leges sacratae*).

II. The Plebeian Tribunes, Aediles, and Assembly.

Number and Term of the Tribunes. — The plebeian tribunes received their name from the military tribunes, but in other respects they resembled the consuls. There were two of

them at first; they were elected by the plebeian assembly, held office for one year, and had no insignia of office.

Right of Intercession. — The tribunes were above all to protect individual plebeians against the patrician magistrates. Accordingly, when appealed to, they were authorized personally to protest, or intercede (*jus auxilii, intercedendi*), against an official act of the consul while it was being performed. The result was to annul it; but, if repeated later without tribunician protest, it was valid. They could liberate a man who was arrested, or protect him, if he was compelled to enlist in the army or to pay a temporary tax (*tributum*). They were in general able to cancel all the consular measures of coercion or punishment.

In every case the intercession of one tribune was sufficient and final, and could not be vetoed by his colleague. But the right of intercession could be exercised neither beyond the mile limit, nor outside the Servian wall against a consul who had departed from the city on a campaign, nor anywhere against a dictator.

Tribunician intercession was not different in character from that of one consul against the other; but it became preëminent because it could be exercised against tribunes as well as consuls, and also because the tribunes had at first so few positive powers. In the course of time it was extended in practice; and, by vetoing the acts of the magistrates concerned, a tribune was able to prevent or annul general administrative measures, the holding of elections, the passage of bills and of senatorial decrees.

Criminal Jurisdiction of the Tribunes. — The tribunes might, on appeal, investigate a case to see whether there was sufficient cause for intercession. In this manner they exercised a quasi-jurisdiction. Their chief judicial function was to punish the violators of the sacred law of 494. This could

not safely be left to the patrician magistrates. The legal conceptions of crime against the state and against the public peace were transferred to offenses against the body of plebeians and their magistrates. The tribunes were entitled to pass judgment on any citizen and especially on the consuls. They allowed persons who were found guilty to appeal to the plebeian assembly (*concilium plebis*), and then acted as prosecutors.

Elections and Legislation. — The tribunes never had the power to convene the whole people, nor did they have even a seat in the senate at this time. They were not magistrates of the people, but of the plebeians. They made announcements, and secured the passage of resolutions (*plebiscita*) in the plebeian assembly. A tribune chosen by lot presided at the election of tribunes and plebeian aediles for the next year.

The right of convening the plebeians and having them take informal or formal action (*jus cum plebe agendi*) was very soon guaranteed to the tribunes by the Icilian plebiscite, which was claimed to be an authoritative interpretation of the sacred law of 494. It threatened with severe punishment any one who interrupted a tribune while addressing the plebeians, or who ordered them to disperse.

Means of Coercion and Protection. — To make the tribunician powers effective, the tribunes were given the right to arrest, to imprison, to impose a fine, or inflict the death penalty on plebeian and patrician, magistrate and private individual — all excepting the dictator. Their persons were inviolable (*sacrosancti*). To do them bodily harm, to injure them otherwise, and to oppose them in their official duties, were crimes subject to severe punishment, even death. As a consequence, they could not be arrested, imprisoned, accused, or punished while they were in office; and after-

ward they could be prosecuted for official misconduct only by their successors.

The Aediles. — Just as the tribunate was modeled on the consulship, so the aedileship was modeled on the quaestorship. The aediles were two in number and served for one year. They were inviolable like the tribunes, and acted as their assistants. Under their direction they made arrests, inquired into appeals for intercession, and executed sentences in criminal cases. Independently they investigated minor cases involving a fine; and, if the defendants appealed, they carried the prosecution before the plebeian assembly. They had charge of the plebeian archives in the temple of Ceres.

The Court of Ten. — As a rule the plebeian institutions did not interfere with the civil jurisdiction. But a court of ten men (*judices decemviri*, later *decemviri stlitibus judicandis*) was established, probably in 494, for the trial of cases involving personal freedom or slavery. Such cases were of the greatest importance to the plebeians, who in general had descended from slaves, and could apparently appeal to no law limiting the duration of ownership in slaves and their descendants. The judges were inviolable, and may have been appointed by the tribunes.

Organization and Powers of the Plebeian Assembly. — The plebeian assembly (*concilium plebis*) was in 494 organized according to curies. It consisted of all the plebeians and clients belonging to the curies, but the patricians were excluded. Probably manhood suffrage prevailed.

The assembly had the power to elect tribunes and aediles, and to pass resolutions (*plebiscita*) which were practically binding in the case of plebeians. Other resolutions were simply petitions. Its decisions in criminal

cases on appeal served simply as a moral support of the plebeian magistrates.

Failures of the Plebeians. — The primary objects of the plebeians in seceding had been to insure themselves an equitable administration of justice, especially in regard to debts, and to promote a just management of the public domain. They obtained some temporary relief; otherwise they were unsuccessful. The general system of private law and custom was not changed even in respect to debtors, and the administration of justice remained the same except in cases affecting personal freedom. The general policy as to the public lands was not permanently changed. The tribunes, to be sure, could annul unjust proceedings of the magistrates in particular cases, but they could not stop the administration of justice in general. Even if they had been able to do so, the immediate result would have been simply anarchy.

Mistakes of the Plebeians. — The plebeians, on the other hand, claimed and gained for their magistrates a criminal jurisdiction to a large extent coördinate with that of the patrician magistrates. Thus the party, or class, leaders were intrusted with the most conspicuous, if not the most important, part of the administration of justice — the great political trials. They degraded the courts into instruments of party, and sacrificed the lives and estates of citizens to the pleasure of partisan assemblies. The results were the more disastrous and lasting, as the old law of custom was breaking down under new conditions. The legal conceptions of the time were indefinite, there were no precise definitions of crime or explicit provisions for its punishment, and large scope was necessarily left to the magistrate and judge for the exercise of judgment or the display of partisanship.

On account of the number and political character of the plebeian and patrician magistrates, there was no concentration of responsibility, no uniformity of judicial practice, no natural and consistent development of criminal law; thus the people did not become imbued with the idea that every crime had its just punishment, and that there was a fixed moral order in the administration of justice.

The Gains of the Plebeians. — While the plebeians failed to obtain the economic and legal reforms of which they stood in the greatest need, they secured in the tribunate an absolute veto and a power of coercion which was superior to that of all the ordinary public authorities. The tribunes were the progeny of revolution, and were in turn to become the instruments of revolution and the progenitors of anarchy. To the plebeians of the time, however, they proved to be of the greatest value. By means of their inviolability and the support of the plebeian organization, they were able greatly to increase their positive powers, and formed a most effective lever for raising the plebeian class and bringing about the political equalization of plebeians and patricians.

III. The Law of Publilius Volero.

Further Conflicts. — The patricio-plebeian constitution was the result of a compromise and was likely to produce civil discord and strife. The violent conflicts that ensued are indicated by the story of Coriolanus, who is said to have been impeached by the tribunes, and to have gone into exile; and that of Spurius Cassius, who is reported to have made an attempt to abolish the unjust system of occupying public lands, but was accused of high treason, condemned, and executed. Afterwards he became the prototype of agrarian agitators.

Law of Publilius Volero. — In the course of conflict and the lapse of years the plebeians probably realized that they had not attained their aims, and that they were not in due measure benefited by their organization. One of the principal causes of their weakness and failure was, that the clients of the patricians voted in the plebeian assembly, and wielded a great influence on the election of the tribunes. Thus the patricians were able to secure the election of some of their adherents, and to defeat some of their ablest and most dangerous opponents. In other cases they resorted to intimidation. It was becoming evident that an electoral reform was necessary in order to insure the choice of brave and independent men. The tribune Publilius Volero saw this, and in 471 secured the passage of a very important law (*lex Publilia Voleronis*), providing that the plebeian assembly should be organized and vote by districts (*tribus*). Each district was to cast one vote, which was decided by the majority of the voters belonging to it.

New Districts. — The original number of districts had been changed. It was perhaps in 495 that the Roman territory was redivided. The four Servian districts were now limited to the city, and hence called urban (*tribus urbanae*). The rest of the territory, enlarged by conquests since the Servian period, was divided into sixteen country districts (*tribus rusticae*), which bore the names of patrician clans. The twenty-first district, the Crustuminian, derived its name from the place where the plebeians had organized themselves, and may have been established in consequence of the Publilian law, in order to make the total number of districts uneven and avoid a tie in voting.

The Reorganized Assembly. — The districts were based on the possession of land, and only the freeholders were voters. The great majority of clients and freedmen, and a

number of plebeians, were consequently deprived of their suffrage, since they had no land. On the other hand, as the freeholders voted without any distinction as to the size of their farms, the great plebeian landowners did not possess any better suffrage than the smallest farmers, and the rich did not have any such preponderance in the plebeian as in the centuriate assembly. The reorganized assembly in the main consisted of, and was controlled by, the independent middle classes.

CHAPTER III.

THE DECEMVIRS, THE LAWS OF THE TWELVE TABLES, AND THE RESTORATION, 462–447 B.C.

I. The Movement in Favor of a Code.

Proposal to Establish a Legal Commission. — The plebeians continued their vain efforts to obtain an equitable and safe administration of justice, but it began to dawn upon them that it was primarily the system of law that was defective and inadequate. The tribunes were not able to change this, but they could at any rate agitate for a change. In 462 the tribune Gaius Terentilius Arsa proposed the selection of a commission to prepare laws which should bound and define the consular powers. For a number of years a violent contest raged. The plebeians repeatedly elected the same men as tribunes and insisted on getting a code. The patricians with equal obstinacy refused to yield. They tried to satisfy or divert the plebeians by smaller and quite different concessions.

Number of Tribunes Increased. — In 457 the patricians allowed the number of tribunes, which had already been increased perhaps to four, to be raised to ten. The increase must have been a great advantage to the plebeians, in so far as the tribunes exercised the right of intercession against the patrician magistrates. But, whenever they exercised positive powers, for example those of arrest or imprisonment, it was a decided disadvantage, since out of the ten the patricians could often find one who would act as their tool and baffle by his veto the efforts of his colleagues.

Distribution of Lots on the Aventine. — About the same time the public land on the Aventine hill was distributed among the poorer plebeians as sites for buildings. Small as the grant was, here was an agrarian law (*lex agraria*) and a precedent for reclaiming public land that had been occupied.

Limitation of Fines. — A third concession was in line with plebeian demands and of high importance. The Aternio-Tarpeian law of 454 fixed the highest fine (*multa maxima* or *suprema*), not subject to appeal, at two sheep and thirty oxen, valued by the Julio-Papirian law of 430 at about $166 (3020 *asses librales*). Moreover, the penalty was in no case to exceed one-half of the property of the citizen fined. The right to impose higher fines was in practice left to the plebeian magistrates, as the consuls waived the right when obliged to allow appeal.

Election of Commission. — At last, in 454, the plebeians were successful in their demand for a commission, though they were forced to agree to a compromise. The assembly of centuries was to elect a commission of ten men to prepare a code of law (*decemviri consulari imperio legibus scribundis*). These men were to have consular powers and were for the time being to supersede the consuls. During their continuance in office the tribunate and the right of appeal were to be suspended. But they were forbidden to infringe on the sacred laws (*leges sacratae*). Although plebeians seem to have been eligible, the patricians succeeded in electing ten of their own number. Afterward, when a second election became necessary, some plebeians were chosen — the first plebeian magistrates of the Roman state. This was a great advance toward political equality, and was well worth the temporary sacrifice of the tribunate and the right of appeal.

II. The Decemvirs, the Laws of the Twelve Tables, and the Second Secession.

The First Decemvirs. — On the resignation of the consuls and the tribunes the decemvirs entered office in 451. They were devoted to their work, just in the performance of their official duties, and they voluntarily allowed appeal to the people. Having drawn up a number of laws, they submitted them to the assembly of centuries for ratification. The laws were confirmed by the people, were engraved on ten tables of copper, and fastened to the platform in the Forum. As a supplement was necessary, decemvirs were elected again in 450. They added two more tables.

Laws of the Twelve Tables. — The laws of these Twelve Tables formed the first and the only code of the Roman republic. Livy speaks of them as the source of all public and private law. They contained a few constitutional provisions, but were in the main a code of private law and procedure.

Law concerning Debt, Money, and Intermarriage. — The old form of verbal contract (*nexum per aes et libram*, p. 41) continued to be legal and valid. According to another and perhaps later form of contract a debtor who had been adjudged (*addictus*) by a magistrate to his creditors, might at the end of about sixty days, and after due announcements, be cut to pieces by them or sold as a slave.

A maximum legal interest of ten per cent for twelve months was established; and perhaps money was introduced as a standard of value in place of cattle. A list was published of the days on which the courts might be in session. The eleventh or twelfth table stated expressly that the patricians and plebeians did not have the right of intermarriage (*conubium*).

Constitutional Law. — The right of appeal was regulated and enforced. Appeal was to be allowed against fines exceeding the maximum ($166) and against capital, and possibly corporal, punishment. In order to prevent the virtual condemnation of individual citizens by special laws, and to guarantee to them regular trials before the people, it was enacted that no decree of the people should be passed against a single citizen (*privilegium*). Finally, the principle was laid down that the later law should prevail against any earlier law.

Source and Results. — The laws of the Twelve Tables are, with few exceptions, a codification, and to some extent an amelioration, of the customary law of Rome — national in spirit and substance. Their great importance lay in the fact that a knowledge of law was henceforth widely diffused among the plebeians, that the consuls were bound to administer justice according to the procedure and the principles of the new code, and the administration of justice was subjected to the control of an intelligent public opinion.

Patrician Parties. — The chief patrician party, under the leadership of the Valerii and Horatii, had the majority in the first decemvirate. It was conservative and made no constitutional experiments. It was willing to allow the tribunate to continue, expecting the tribunes to be more tractable and conciliatory when the code had been adopted. Perhaps it was prepared to grant the plebeians the privilege of intermarriage with the patricians. But under the leadership of Appius Claudius a party of opposition seems to have been formed, advocating a different policy: the plebeians were definitely to renounce the tribunate and agree to the prohibition of intermarriage; in return, they were to be eligible as magistrates and senators under certain conditions which should guarantee the preponderance to the patricians.

Library

The Last Decemvirs. — The existence of two such parties would tend to explain the differences between the first and the last decemvirs. Three or more of the latter were plebeians. Appius Claudius, who presided at the election in 450, was the only decemvir reëlected. With one exception, he was also the only man of any importance in the second decemvirate. During the preceding year one decemvir at a time had twelve lictors, and appeal was granted; during the second year the decemvirs had twelve lictors each, and they passed unjust sentences and through private agreement practically abolished even collegiate intercession. When they had prepared the laws of the eleventh and twelfth tables, and should simply have submitted them to the assembly of centuries and resigned, they arbitrarily continued in office beyond their official year.

The Sabines and Aequians seized the opportunity to begin war. Two Roman armies were sent against them, but were defeated. Then the plebeian military tribune, Lucius Siccius Dentatus, a veteran of a hundred and twenty battles, was murdered by command of the decemvirs. By legal trickery Appius Claudius tried to obtain possession of the daughter of Lucius Verginius, the bride of the former tribune Lucius Icilius. To rescue her from shame, Verginius killed her in the open Forum. Such are the details supplied by tradition.

Second Secession and the Restoration. — All could now see to what the despotic power of the decemvirs would lead. The armies marched to the Sacred Mount and elected their own tribunes. Then they returned to the city and occupied the Aventine. Civil war was imminent. At last the decemvirs resigned. A compromise was negotiated between patricians and plebeians: the tribunate and the consulship were to be reëstablished and amnesty was promised to the seceders.

As there were no tribunes, the chief pontiff (*pontifex maximus*) presided at the election of the new tribunes, who entered on their office on December 10, 449. Consuls were next elected, Lucius Valerius and Marcus Horatius, whose duty it was legally to carry through the concessions made to the plebeians.

III. The Valerio-Horatian Laws and the New Popular Assembly.

The Patrician Policy. — The new consuls continued the conservative policy of their party. They recognized the validity of the laws of the Twelve Tables and made them the basis of the administration of justice. In a series of laws relating to the right of appeal and the plebeian magistrates and assembly, they made important concessions to the plebeians, but they maintained the patrician character of the consulship and quaestorship and the authority of the senate.

Right of Appeal. — Although the right of appeal had been guaranteed by law long before, nevertheless the decemvirs had been vested with a supreme authority not subject to appeal. The provisions in the Twelve Tables respecting appeal would not prevent the election of other magistrates with similar unlimited powers. A Valerio-Horatian law accordingly enacted that no one should preside at an election of a magistrate who was not bound to allow appeals; and, if any one did so preside, he might be killed by anybody with impunity. The dictator, who, properly speaking, was appointed (*dictus*), not elected (*creatus*), was probably not affected by this provision and retained his old powers.

The Plebeian Tribunes. — Far from being destroyed by the attack of Appius and his party, the tribunate was reëstablished and sanctioned so firmly by the new laws that its le-

gitimacy could not be questioned, nor was any attempt to abolish it ever made again in Rome. The inviolability of the tribunes, and of the aediles and the court of ten (*judices decemviri*, p. 45) as well, was reaffirmed by another Valerio-Horatian law, and sanctioned by the oath of the whole state and the severest penalty. To avoid any further irregularity in the election and succession of tribunes, Marcus Duilius, tribune in 449, is said to have carried a plebiscite decreeing that any tribune who neglected to have successors elected should be punished with death. In 448 the Trebonian plebiscite prohibited the coöptation of tribunes, and directed that an election should be continued until ten tribunes were elected. This step was taken to diminish the influence of the patricians.

Tribunician Powers. — Perhaps the tribunes were now for the first time allowed to attend regularly the sessions of the senate, a bench being placed for them at the door. The first recorded instance of tribunician intercession against a senatorial decree, or rather against the consular actions on which its validity depended, belongs to the year 445. Naturally intercession would be employed only against senatorial decrees which were not mere expressions of opinion, but were constitutionally necessary to make an official act or a bill valid.

By the laws of the Twelve Tables the tribunes were prohibited from prosecuting any one on a capital charge before the plebeian assembly; but they recovered their jurisdiction in such cases, inasmuch as they were soon permitted to prosecute persons on such a charge before the assembly of centuries. They became, so to speak, the attorney generals of the state in the great political trials. Their initiative in legislation also rose in importance, and they approached more and more the position of magistrates of the whole people.

The Plebeian Assembly. — A third Valerio-Horatian law provided that plebiscites should have the force of law. It is probable, however, that they were not unconditionally valid, but were subject to the previous approval of the senate. Even with this restriction the plebeians had gained an important advantage, and could now extort additional concessions and make a further advance toward the equalization of the orders.

Custody of Senatorial Decrees. — The consuls, moreover, directed that the decrees of the senate should be deposited in the temple of Ceres, the plebeian archives, under the charge of the aediles. Perhaps only those decrees on which the validity of the plebiscites depended, were to be so guarded.

The New Popular Assembly. — A short time after the passage of the Valerio-Horatian laws a new popular assembly (*comitia tributa*) was introduced. It was organized according to districts (*tribus*) like the plebeian assembly, and consisted of freeholders, but included the patricians as well as the plebeians. In 447 the quaestors were elected by this assembly under the presidency of a consul. In this way they became subordinate magistrates (*magistratus minores*) in place of mere appointees.

The two assemblies based on the districts (*concilium plebis* and *comitia tributa*) were comparatively democratic; they exercised in the course of time more and more frequently and freely the power of legislation, and were very important factors in the development of the sovereignty of the people, and in the establishment of a complete democracy.

CHAPTER IV.

CONSULAR TRIBUNES AND CENSORS, 447–367 B.C.

I. Intermarriage, Consular Tribunate, and Censorship.

The General Situation. — So far the plebeians had struggled to secure such private rights as depended on the administration of justice and on an equitable management and disposal of the public domain. In the sphere of justice they had been successful, but in regard to the system of occupation (pp. 40–41) they had failed to obtain any permanent improvement. The reason for this difference in results may be found in the fact that some of the wealthy and influential plebeians were as much interested in the unjust land policy as the patricians.

As yet the plebeians had made no direct attempt to wrest from the patricians their exclusive possession of the consulship and their control of the government. During the time of the decemvirs two questions had become prominent: the right of intermarriage, and the eligibility of the plebeians to the highest office in the state. The former was decided against the plebeians by a law of the Twelve Tables, and the latter by the restoration of the consulship. Neither decision was final.

Perhaps the ordinary plebeians by this time comprehended that they needed equal political rights in order to secure just treatment in the private sphere. The wealthy plebeians probably understood that they would always remain the inferiors and dependents of the patricians unless they

united with the plebeians of the middle and lower classes. At any rate the assumption of harmonious action on the part of all the plebeians would largely explain the rapidity and ease with which they now succeeded in their next agitation, and obtained the right of intermarriage (*conubium*) with the patricians.

The Right of Intermarriage. — The union of parties who enjoyed the right of marriage conferred on the husband the marital authority (*manus*, pp. 2–3), and on the father the parental authority (*patria potestas*, p. 3); the children belonged to their father's clan and class, and inherited his property, even if he died without making a will. These privileges were probably granted also to plebeians who married women of the patrician class. On the other hand, the union of a patrician man and a plebeian woman had so far not been a lawful marriage (*justum matrimonium*), because, though Roman citizens, the parties did not possess the right of intermarriage. The wife, in this case, did not become subject to the marital authority; the children were not subjected to the parental authority, were members of the clan (*gens* or *stirps*) and class of their mother, and did not inherit any of their father's property, if he died intestate.

The Results of Lawful Intermarriages. — As the patricians decreased in number and rich plebeian families rose in influence and prestige, it became evident that intermarriages between these orders would help to replenish the coffers and to invigorate the blood of the patricians. The direct advantages were, therefore, on the side of the patrician class — just as in the case of impoverished European noblemen who marry American heiresses — except in so far as the blue patrician blood could not be maintained in its pristine purity. The plebeians might, however, gain indirectly: if the son of a

patrician father and a plebeian mother could hold the highest offices in the state, a man of pure plebeian blood might hope that he would be able to attain the same distinction. Moreover, such patricians as wished to marry outside their order could, if intermarriage was conceded, marry plebeians in place of members of the Latin nobility, and thus contribute to the unity of the state. In any case the class spirit of the patrician order seemed fully equal to the task of preventing any very important social or political results. Under these circumstances the right of intermarriage between patricians and plebeians was without much difficulty established by the Canuleian plebiscite in 445.

The Consular Tribunate. — In the course of the same year a number of tribunes proposed that plebeians also should be eligible to the consulship. As usual, the patricians did not agree to the proposition and effected a compromise. The patricians alone remained eligible to the consulship, but a new office, the consular tribunate, was created. It was modeled to a slight extent on the military tribunate, to which the plebeians had for a long time been eligible. The number of consular tribunes (*tribuni militares consulari potestate* or *imperio*) seems to have been normally six, but it varied from three to six. They were elected by the assembly of centuries, and might be either plebeians or patricians; still neither class was entitled to a definite number of places in the college. They were to serve for one year and exercise consular authority.

These tribunes were denied certain honorary rights connected with the consulship. They were, for example, not permitted to celebrate a triumph, and probably the plebeian ex-tribunes did not enjoy in the senate the precedence accorded to ex-consuls. Moreover, while the descendants of a consul were allowed to place a painted wax mask of him in the family hall and on certain occasions to exhibit it in

public, — privileges which later constituted practically a patent of nobility (*jus imaginum*), — a consular tribune acquired no such distinction for his descendants.

Patrician Politics. — As a reason for the new arrangement, the patricians urged that the numerous wars made a greater number of commanders-in-chief necessary. In reality they intended to withhold in practice what they granted in theory. For this reason the senate alone was given authority to decide each year whether consuls or consular tribunes were to be elected. In this way the struggle was renewed every year, and the patricians annoyed and discouraged their opponents. Even if they were defeated in the preliminary contest in the senate, they were usually able to fill all the places, varying the number of tribunes to be chosen according to their opportunities. If too many plebeians were chosen, the election might be annulled by the patrician senators, or, especially later, by the declaration of a college of aristocratic priests that the religious requirements had not been met.

The Censorship. — In spite of these precautions, the patricians did not feel secure; and, in order to postpone their inevitable political defeat, they broke up the supreme consular power, which had hitherto been in theory indivisible, and in 443 established a new patrician office, the censorship. Two assessors (*censores*) were to be elected by the assembly of centuries; their election was to be sanctioned also by the centuries (*lex centuriata de censoria potestate*), not by the assembly of curies. Their term is said to have been five years at first, but was soon limited to eighteen months. As the census was normally to be taken every fourth or, after the second Punic war, every fifth year, there was an interval between the resignation of the last censors and the election of their successors.

Functions of the Censors. — Censors were to have charge of the census. They enrolled and assessed the citizens and assigned each one to the proper Servian class and century, and to a district (*tribus*). They regulated the list of horsemen (*equites equo publico*). In performing these functions, they were not subject to consular or tribunician intercession, and were practically irresponsible. They exercised accordingly a great influence on the organization and the character of the assembly of centuries and even on the two assemblies based on districts (*concilium plebis* and *comitia tributa*). Under the superintendence of the senate the censors adjusted the budget of the state, — farmed out taxes, let contracts for the erection or repair of public works, and so forth. Because of their irresponsibility in taking the census, and owing to powers later acquired, they became in some respects the highest officers in the state and one of the mainstays of the aristocratic government.

II. Economic Measures and Party Politics.

Economic Conditions. — When the plebeian aristocracy had gained possession of the plebeian tribunate, the privilege of intermarriage, and admission to the consular tribunate, they rested on their laurels and made no earnest effort to reform the management of the public domain or the law of debt. In other words they betrayed the cause of the ordinary plebeians, and enabled the patrician government to withhold from the common people whatever it pleased. Although the state became an aggressive military power and needed a numerous class of farmers, that is, of soldiers (pp. 22–23), public lands were given to individual citizens only in comparatively few places, on a scale by no means adequate to relieve the farmers, and for military rather than economic reasons. Four new districts (*tribus*) were, however, organized in 387.

The condition of debtors was lamentable. During the long war with Veii in particular (406–396) numerous plebeians became involved in debt. Still worse in its consequences than the patrician land policy was the burning of Rome by the Gauls in 388. Plebeian indebtedness then increased as never before.

A distinguished patrician, Marcus Manlius, is said to have become the champion of the people and to have offered his lands for sale in order to help the debtors. He was prosecuted, according to tradition, by two plebeian tribunes on the charge of seeking royal power, and was condemned to death.

Concession of Pay for Military Service. — The senate passed, however, one important measure of relief. The principle of the Servian organization, that each soldier should equip himself and, so far as he could not live on booty, also support himself, was impracticable in wars carried on at some distance from Rome and for a long time. As a consequence each district (*tribus*) was at an early period required to furnish a certain sum of money (*tributum*) and out of this to pay the individual soldiers what they needed for support. At the end of the campaign the state reimbursed each district for its outlay, if it was in a position to do so. In this manner the lower Servian classes obtained their means of subsistence in war to some extent at the expense of the higher classes. Nevertheless, the war tax became a burden to the lower classes, when it was levied repeatedly, perhaps at an unseasonable time, and was not repaid for a considerable period. When during the Veientine war it became necessary to keep the soldiers under arms both winter and summer, the senate, in 406, decided to charge the maintenance of the soldiers to the state treasury, that is, to the revenue from the duties and the public domain. This arrangement tended to decrease the burdens of the lower classes and to increase those of the higher.

Voluntary Cavalry Service. — The siege of Veii is said to have led to another reform in 403. The old cavalry of eighteen centuries was insufficient, and volunteers belonging to the first Servian class were accepted. They furnished and maintained their own horses, but received each thrice as much pay as an ordinary soldier. This regulation was of some importance from the military point of view, yet its chief effects were social and political. The rich plebeians now advanced another step toward the level of the patrician nobility; and, what was later of great consequence, the old cavalry tended to become, as it were, a regiment of ornamental Royal Horse Guards, in which during a long period all the senators remained and enjoyed a privileged suffrage.

The Roman infantry was reformed at about the same time. The old phalanx was broken up into small battalions (*manipuli*) in order to insure greater mobility; and the position of each soldier in the battalions depended, not as formerly, on his equipment, or his amount of property, but on his experience and ability. This reform probably had a democratic tendency.

Elections to the Consular Tribunate. — When the aristocratic plebeians disregarded the demands of the ordinary plebeians, they could not expect, nor did they receive, their support at the elections for the consular tribunate. The choice of consular tribunes was about as frequent as that of consuls down to 395, and was thenceforth an almost invariable rule until 367; so that the consulship seemed likely to disappear. In spite of the frequent election of tribunes the plebeians, with perhaps one exception in 444, were excluded from the office until the year 400. But in 400, 399, and 396 they elected a majority of the consular tribunes. Then they were defeated again for a number of years.

Four Quaestors. — In 421 the number of quaestors was raised to four, in order that two of them might accompany the consuls on their campaigns. The plebeians were declared eligible to this office; none were chosen, however, before 409. Still, it was a great victory for the plebeians to gain admission to an ordinary magistracy.

CHAPTER V.

THE LICINIO-SEXTIAN LAW AND THE ESTABLISHMENT OF THE PLEBEIANS IN THE GOVERNMENT, 367–312 B.C.

I. The Enactment, Character, and Results of the Licinio-Sextian Law.

The Bill of Licinius and Sextius. — The aristocratic plebeians had now had ample opportunity to realize by experience that they would never become the political equals of the patricians unless they gained the support of the rank and file of their order. The plebeians of the middle and lower classes probably saw that at the hands of the patricians they would never secure a fair share of the public lands or any substantial improvement in the law of debt. Their own hardships and distress must have been the more galling when they saw that extensive territories were left to the members of the governing class for exploitation. Two members of the plebeian aristocracy, Gaius Licinius Stolo, and Lucius Sextius Lateranus, perceived that there was an excellent opportunity to obtain united and hence effective action on the part of all plebeians; and with this end in view they secured their own election as plebeian tribunes for 377. They set forth their policy in one comprehensive bill as follows: consular tribunes should henceforward never be elected, and at least one of the consuls was to be a plebeian; secondly, no one should occupy more than three hundred and eleven acres (500 *jugera*) of arable public land, or keep more than one hundred head of cattle and five hundred sheep in the public pastures;

moreover, a certain proportion of free laborers (not slaves alone) should be employed in agriculture; in the third place, sums paid in interest were to be deducted from the principal of debts then due, and the balance was to be paid in three years in three equal installments.

Struggle for the Passage of the Bill. — As was to be expected, the senate did not sanction the bill. Both parties then exerted all the means at their disposal to gain the victory. According to the story, the leading tribunes carried on agitations among the plebeians, interceded against all the official acts of the magistrates, and caused anarchy for several years — probably a fiction. They were reëlected and continued the campaign for ten years. But the ordinary plebeians were not always enthusiastic in their support, and would gladly have accepted the economic reforms and sacrificed plebeian eligibility to the consulship. Licinius and Sextius insisted, however, on the combination of all the demands in one bill.

The patricians induced other tribunes to intercede against the leaders of the measure, made use of the dictatorship, and levied troops in order to prevent the citizens from voting. Being still unsuccessful, they made concessions. In 368 they allowed the commission in charge of the Sibylline books (*duoviri sacris faciundis*) to be increased to ten members, five of whom must be plebeians. Though inferior to the pontifical and augural colleges, this commission was important and useful as a means of hindering political action.

Finally, in 367, an agreement was reached. The bill became a law, consuls were elected, and Lucius Sextius obtained in the consulship a reward for his efforts. The price paid the patricians was the creation of one and perhaps of two patrician offices — the praetorship and the curule aedileship.

Praetorship and Curule Aedileship. — Once more the patricians were willing to weaken the consulship in order to save a remnant of their old privileges. The ordinary administration of justice in civil cases was taken away from the consuls and given to a new patrician magistrate, the praetor, who was to be a subordinate colleague (*collega minor*) of the consuls, and who in their absence should possess in the main consular powers. Two other patrician magistrates, the curule aediles (*aediles curules*), were to supervise the market and exercise a certain jurisdiction in connection with it; and they, as well as the plebeian aediles, were to prosecute those who occupied more than the maximum of public land. In addition, they were to have charge of the celebration of the national festival (*ludi Romani* or *maximi*).

Political Importance of the Licinio-Sextian Law. — The Licinio-Sextian law formed the turning-point in the civil strife of two centuries: before its passage the plebeians were the inferior and the weaker party; afterward they were in general the victorious and stronger party, busily engaged for two generations in reaping the fruits of their victory. Civil equality, such as had existed in the patrician state, was largely restored, and raised the position of every plebeian citizen. But the chief supporters of the law, the plebeian aristocracy, were also the greatest gainers. They now began to share with the patricians the curule magistracies (p. 102) and the hereditary distinctions of nobility connected with them. The effect of the law was therefore similar to that of creating a number of English peers. Plebeian senators who had filled the consulship acquired the right to express their opinions with the patrician ex-consuls previous to the other senators; and the plebeians formed later the majority in the senate. They shared also the old patrician sacerdotal dignities, being admitted to the college third in rank (*decemviri sacris faciundis*).

The Provisions respecting the Public Lands.—The provisions respecting the public domain and private debts were the price paid for the support of the common people. They were neither adequate nor thorough. A fair distribution of the public lands already occupied, the abolition of the system of occupation, and a permanent provision for an impartial and speedy distribution of future acquisitions of territory were plainly necessary, and would have been just and thorough measures. But the Licinian law fixed a very liberal maximum both in regard to the occupation of land and the use of the public pastures, and gave to the wealthy plebeian and patrician aristocracy a disproportionate prior share of the profits to be derived from the public domain. When the rich should have received their portions, it was probably the intention that the remaining lands should be distributed among individual plebeians. Before the passage of the law the rich had, however, had a number of years in which to dispose of the land they held in excess of the maximum of three hundred and eleven acres. Moreover, the law did not in any way improve the existing unsatisfactory provisions for the collection of the public revenues from the domain.

Nevertheless, during the period after 367 the aediles were comparatively strict in enforcing the provision respecting a maximum, and frequently imposed heavy fines on the owners of large herds and the greedy occupants of public lands, of whom Licinius himself was one. In the course of time the small farmers were substantially benefited by the law, and the agrarian agitations disappeared from Roman politics for more than a century. In consequence of the land policy, every new acquisition of territory was a part of the spoils of war, for which rich and poor competed, and formed such a conspicuous source of profit that it was ever an incitement to war.

Provisions as to Free Labor and Debts. — The provisions in regard to free laborers and the payment of existing debts were the most unsatisfactory of all. Credit is no doubt due the authors of the law for having so early called attention to the danger to free labor which is inherent in slavery; but they could not without an industrial revolution prevent the development of the system of farming on a large scale and by means of slaves.

The debtors were undoubtedly aided by the new regulations, in so far as they had the means wherewith to pay the balances of their debts. But, as the next twenty-five years show, it was purely a temporary relief. On the other hand, the law of debt, which for generations the plebeians had been trying to change, was not altered; and even its enforcement — another plebeian grievance of long standing — was left mainly in patrician hands, in charge of the patrician praetor and aediles.

II. Plebeian Progress, Economic Conditions and Measures.

Election of Curule Aediles and Military Tribunes. — The curule aedileship was at first patrician; but it was soon arranged that two patricians should be chosen one year, two plebeians the next, and so on by turns. The plebeians seem to have filled the office, for the first time, in 364. Hitherto the commanders of the legions, the military tribunes (*tribuni militum*), had been appointed by the consuls or their deputies. In 362 the choice of six military tribunes was left to a popular assembly (the *comitia tributa*). The new arrangement was probably intended to gratify the people, who had for a long time been choosing military tribunes with consular powers. The plebeians were eligible to the military tribunate, and may have gained a political advantage at the expense of military discipline.

Progress of the Plebeians. — It might have been supposed that after the passage of the Licinian law the patricians would be, if not sufficiently fair and just, at least sensible and clear-sighted enough to see that further resistance to the plebeian demand for equal rights would be useless; but they were not. They claimed sole eligibility to the dictatorship and censorship, and they even went so far as repeatedly to elect two patrician consuls in open violation of the law. Nevertheless the plebeians secured admission to additional magistracies; a plebeian had been master of horse in 368; another became dictator in 356, and censor in 351.

The Rich and the Freedmen. — The Licinian law left the wealthy an excellent opportunity to enrich themselves. The rich plebeians no doubt made the most of it. Licinius, for instance, emancipated his son from his paternal authority in order that they might together occupy about a square mile of the public lands and enjoy also the privilege of grazing two hundred head of cattle and a thousand sheep in the public pastures. Agriculture carried on in this way — that is, on public lands subject to no tax — could hardly fail to be profitable.

The plebeian aristocrats at this time manumitted slaves in great numbers. The freedmen were more enterprising and trustworthy than slaves, and more obedient than freemen, as they could be reduced to slavery if disobedient. In addition, they had votes, but were not liable to military service. They were able to render their plebeian patrons the same services, and lend them the same dignity, as the numerous clients did their patrician lords. The patricians were not equally interested in manumissions. As a result, a patrician consul, who was some distance outside the city and safe from interference on the part of his colleague and the plebeian tribunes, convened the people in 357 and

secured the passage of a law imposing a tax of five per cent of the value of all slaves who were manumitted. This was the first Roman tax laid on the rich, and was a slight but desirable check on the increase of freedmen. The patrician senators sanctioned the law; and the plebeian tribunes contented themselves with the passage of a plebiscite which prohibited any one from convening the people outside the mile limit.

New Distress of Debtors. — While the rich grew richer, the middle and lower classes grew poorer. The Licinian law brought some relief, and grants of public land had increased the number of freeholders, as is indicated by the fact that two new districts (*tribus*) were formed in 358; but time was required for turning new possessions to account, and the public burdens were heavy. The farmers borrowed to relieve temporary distress; and, if they were unable to repay, they were at the mercy of the money lenders, who granted further credit only on the hardest terms. When in this manner large numbers had become unable or unwilling to bear the public burdens, various measures were resorted to, but furnished no permanent or adequate relief. As a consequence the discontent rose in 342 to such a height that the soldiers in Campania were insubordinate and mutinous, and the distressed debtors in Rome were ready to join them.

The Laws of 342 B.C. — In 342 a number of laws were passed which in a great measure satisfied the discontented and restored order. Most of the demands of the soldiers were conceded. It was enacted that no one who had been enrolled as a soldier should, against his will, be struck from the roll, and that no one who had been a military tribune should afterward serve as a centurion. These two provisions were intended to guarantee to the soldiers the

advantages of profitable military service. For the benefit of the poor plebeians in general, the Genucian plebiscite apparently prohibited absolutely the taking of interest. Nevertheless, interest was demanded and received later on, and the legality of the transaction was not questioned. The legislators, therefore, still failed to establish a reasonable method of giving security for loans and a rational procedure in cases of bankruptcy — measures of fundamental importance.

The aristocratic plebeians seized the opportunity to obtain measures of their own. It was enacted that no one should fill the same office again until ten official years had elapsed since his former term. The plebeian tribunate and aedileship were included in the provision. This rule prevented for the future frequent reëlections to the consulship, increased the number of the plebeian nobles, and extended their influence in the senate. At the same time it greatly restricted the influence of individuals, and increased that of the senate. It was further provided that no one should fill two regular offices during the same year. This was a beneficial regulation, since the state needed all the magistrates provided by the constitution, and it was for various reasons undesirable to combine the consulship and praetorship, which were the offices chiefly concerned. Lastly, it was by law declared to be permissible to elect two plebeian consuls. The declaration was sufficient; the patricians never during the existence of the republic ventured again to elect two patrician consuls.

III. The Publilian, Ovinian, and Poetelian Laws.

Publilian Law respecting Plebiscites. — The laws of 342 did not fully satisfy the ordinary plebeians or insure the steady political advancement of the plebeian aristocracy.

Consequently, when Quintus Publilius Philo had been appointed dictator in 339, he seized the favorable moment and carried three laws, relating to plebiscites, the patrician right of sanction, and the censorship.

It was again established by law that the plebiscites should be legally binding on all citizens (*cf.* p. 57). Probably other provisions, now entirely lost, increased the efficiency or the powers of the plebeian assembly. The law was no doubt intended to gain popular support and to serve the purpose of the plebeian aristocrats, who turned the plebeian organization into an instrument of their own.

Law respecting the Sanction of Patrician Senators. — The second law decreed that the patrician senators should sanction (or reject) a bill before it was voted on in the centuriate assembly — not after its passage, as was the old custom (*cf.* pp. 14, 33). Just as it is easier nowadays to reintroduce a bill in the American congress than to pass it over the president's veto, so it was easier then to renew a bill (*rogatio*) that had been rejected before passing the assembly, than one rejected after its passage. On the other hand, it was also less objectionable to veto a bill before than after its passage by the centuries. It is probable, therefore, that the patrician senators were restricted in some way in the exercise of their power. At all events the change seems to have proved effectual; and, partly because of a change of circumstances, this patrician right of sanctioning laws (*patrum auctoritas*) was henceforth a matter of form.

Law in Regard to the Censorship. — The third law declared that one censor must, and probably that both might, be plebeians. It insured fair treatment of the plebeians in the enrollment and assessment of citizens, later also in the choice of senators; and it was an important political victory.

In 337 Philo became praetor, and thus the last ordinary magistracy was opened to the plebeians.

Extension of Supreme Authority. — With the name of Philo is associated also the first extension of supreme authority (*prorogatio imperii*). The plebeian tribunes secured the passage of a plebiscite authorizing Philo to continue with consular authority (*pro consule*) the war against the Greeks until it should be finished. The right to extend the authority of a magistrate was essentially equal to the right to elect or appoint, and belonged to the people, but was afterward exercised by the senate also. The new arrangement remedied to some extent the evils involved in annual changes of commanders-in-chief, and was a great advantage from the military point of view. Politically, it was the first inroad on the fundamental principle of annual tenure, and a makeshift which impeded an organic development of the executive power. This is, moreover, apparently the first trustworthy instance in which the plebeian tribunes acted as the agents of the senate or government.

The Ovinian Law. — The plebeians were now firmly established in the magistracies. There remained the task of obtaining proper recognition and due influence in the senate. Few plebeians had reached the consular tribunate, and only a small number of plebeians had risen to the consulship since 367. They had been more fortunate in regard to the curule aedileship. But they were inferior to the patricians both in respect to the influence, and even the number, of their senators.

To remedy this state of affairs, the Ovinian plebiscite was passed about the year 312. It took away from the consuls the power to revise and complete the list of senators, and conferred it on the censors. As the revision would now occur only once in four or five years or even more, the law

in effect provided that in the meantime every one who had been curule aedile, praetor, or consul was to have a seat and vote in the senate, and should at the next revision be placed on the senatorial list, or at any rate be omitted only for such a cause as would suffice for the expulsion of a senator. Below the rank of curule aedile, former plebeian tribunes and aediles and ex-quaestors were naturally considered, and had a better chance of appointment than those who had never held any office.

Consequences of the Law. — Under these circumstances the plebeians not only became the peers of the patricians in official prestige, but after a time gained a majority in the senate. They had the requisite political training and the connections, as well as the wealth, and prepared the way for the entrance of their sons into office and into the senate. Thus they founded an official nobility which, together with the patrician nobility, constituted a governing class, and whose family names appear in the lists of magistrates to the end of the republic.

Besides contributing to the development of a plebeian nobility, the Ovinian law greatly diminished the power and influence of the consuls, helped to make the censorship in some respects the supreme office in the state, and formed one of the chief steps in the advancement of the senate to a position independent of, and above, the magistrates.

The Poetelian Law. — When the plebeian aristocracy had been so successful politically, it was eminently just that their allies, the ordinary and poor people, should be granted some permanent relief. In 326 the ancient form of contract (*nexum*, p. 41) was changed by the Poetelian law. No citizen could henceforward be led away to bondage by virtue of such a contract, but only upon the sentence of jurymen; and every one who on oath declared himself solvent was to

remain personally free on surrendering his property. Only criminals were to be kept in heavy chains or to suffer corporal punishment. The law was considered of such importance to the common people that a second era of liberty was reckoned from its enactment.

Extension of Powers of Assemblies. — Besides this practical increase of individual rights, the people obtained larger powers in their collective capacity — in the popular and plebeian assemblies. The people are said to have granted a triumph to the consuls of 449 against the wishes of the senate, and to have conceded a triumph to the first plebeian dictator in 356. They annulled a decree of the senate about 388 — the first instance on record. They decided the fate of Caere in 353, and afterward that of the inhabitants of Tusculum. In 320 the principle was proclaimed that no treaty was valid unless sanctioned by the people. Finally, in 311, the people began to elect sixteen in place of six military tribunes.

CHAPTER VI.

THE CLAUDIAN REFORMS AND THE HORTENSIAN LAWS, 312–287 B.C.

I. The Reforms of Appius Claudius, and the Reaction.

The Aims of Appius Claudius. — The regular advancement of the plebeians was interrupted by a patrician reaction. The leader of the new movement was Appius Claudius Caecus, who combined in one of the most remarkable personalities of Roman history the aims of exclusive patricianism and the ideas of radical progress. He saw that Rome was destined to become the sovereign of Italy, and wished to promote and insure its sovereignty by political reforms and by public works executed on a large scale. The censorship offered by far the best opportunities for his purpose, and in 312 he secured his election as censor, together with Gaius Plautius. He seems to have met with no opposition from his colleague, and to have exercised the censorial powers with the utmost freedom.

Revision of Senatorial List. — Perhaps Appius desired to establish a patrician oligarchy as the best government for Italy; at any rate, he wished to humble the new plebeian nobility and to increase the influence of the patricians. In revising the list of senators, he allowed unworthy members to remain and omitted others really worthy. Contrary to all custom, he admitted a considerable number of sons (or grandsons) of freedmen. Possibly he intended to secure a majority of patricians and their dependents.

Valuation of Property. — Hitherto land had been the basis of the organization of the centuriate and the democratic assemblies (pp. 22, 48–49, 57); but other property, for example merchandise and slaves, must have increased considerably in Rome by this time, and made the old standard appear inadequate and unjust. Appius and his colleague seem to have been the first to enroll and classify citizens according to the amount of all the property, personal as well as real, of each one. Thus they placed trade, commerce, and manufactures, to a certain extent, on a level with agriculture. They were perhaps the first who reduced everything to a valuation in money. They seem to have rated one acre at about $183 (*jugerum* = 5000 *asses sextantarii*).

Enrollment and Classification of Citizens. — While so far only freeholders of free birth had been enrolled in the districts and in the Servian classes, Appius enrolled all the citizens. He seems, so far as possible, to have allowed each citizen to register in any district he wished, and then to have placed him in one of the Servian classes according to the value of all his property. By this reorganization Appius possibly obtained a better basis for taxation and raised the number of citizens liable to military service, and thereby increased the available military resources of the state. By the admission of freedmen he no doubt impaired the independence of the assemblies based on districts (*concilium plebis* and *comitia tributa*), and he probably intended to make them subservient to a patrician oligarchy. But he was far less able to influence the assembly of centuries, because its gradation of the suffrage gave the preponderance to the rich.

The Appian Aqueduct and the Appian Way. — Appius had begun two public works of great importance — an aqueduct, and also a highway from Rome to Capua. He seems to have spent the immense sums of money required without

receiving the sanction of the senate; and on the resignation of his colleague he gained the support of three tribunes and remained in office contrary to law, in order that he might complete the works undertaken. He was successful. The magnificent Appian Way was a noble beginning of the network of highways which facilitated the conquest and the government of Italy.

The Flavian Law of Procedure. — A few years later, Appius carried the election of Gnaeus Flavius, his former secretary, to the curule aedileship, and induced him to publish various forms of legal procedure (*legis actiones*) and the calendar (*fasti*), which was mainly a list of court days. This law of procedure (*jus Flavianum*) formed a revision and supplement of the Twelve Tables, and tended to make the ordinary people independent of their noble legal advisers, especially of the pontiffs. In general, the result of the Appian reforms seems to have been a certain equalization of the humble and the noble plebeians, and a confirmation of the liberty of the common people.

Restoration of the Old Senatorial List. — The measures of Appius naturally excited opposition; the plebeian aristocrats and the moderate patricians combined against him, as they had done against his ancestor, the decemvir. They succeeded in electing their candidates for the consulship for the year 311. The new consuls disregarded the senatorial list of Appius, and summoned the former members to the meetings of the senate.

Censorship of Rullianus and Decius. — The censors of 307 did not venture to abolish the Appian principles of enrollment and classification. But the opposition gained ground, and in 304 again elected their candidates for the censorship —the military heroes, Quintus Fabius Rullianus and Publius Decius Mus. Rullianus and his colleague proceeded to mod-

ify the innovations of Appius. They assigned all those who had no land to the four city districts (*tribus urbanae*) and made these rank, not as the first, but the last. Perhaps they removed the freeholders of free birth from these districts so far as possible. In the urban districts each citizen was assigned to a Servian class according to the value of all his property, but in the country districts (*tribus rusticae*) according to the value of his land. The freedmen and their sons were placed in the city districts and excluded from the classes even when they were freeholders. The result of the arrangement was similar to a modern gerrymander on a large scale: it gave the freeholders the preponderance in the democratic assemblies, and preserved to the rich the preponderance in the assembly of centuries.

Two Appian principles seem, however, to have remained. First, no citizen who by law was entitled to the right of suffrage could be deprived of it by the censors, that is, be excluded from all the districts. This restriction of the censorial power was perhaps the greatest ever established. Secondly, the censors had the right to introduce new rules in regard to the enrollment and classification of citizens. This arbitrary power belonged properly to the legislative organs of the state. It led to uncertain and inconsistent regulations of the suffrage.

II. The Ogulnian, Valerian, and Hortensian Laws.

The Colleges of Pontiffs and Augurs. — The equalization of the orders could now go on to its final completion. The plebeians had so far not been admitted to the colleges of pontiffs and augurs. These were the foremost in the state and wielded a great political influence. The pontiffs had the general superintendence of public and private worship, were the interpreters of the religious law (*jus divinum*),

were eminently skilled also in the civil law, and above all had charge of the calendar, or list of days on which the popular assemblies could meet, courts be in session, and so forth. Consequently they exercised a considerable influence on the administration of justice, on the popular assemblies, and on politics in general.

The augurs were versed in the science of interpreting the omens of birds, the significance of lightning, and the like (*divinatio*). They might be consulted on the question whether the omens had been duly observed, — for example, before or during an election or the passage of a law. If they responded in the negative, the person elected was morally, but not legally, bound to resign, and the law was regularly annulled by another law or a decree of the senate. The college of augurs might act even when not consulted, and in this manner it practically canceled acts of the magistrates and decrees of the people.

The Ogulnian Law. — The plebeians could no longer leave these two colleges in the exclusive possession of the patricians. They no doubt claimed admission on the general Roman principle that the men who controlled or formed the government should also possess the power in religious affairs; and they prevailed. The Ogulnian plebiscite of the year 300 increased the number in each college from six to nine, and decreed that henceforth four pontiffs and five augurs should be plebeians. The struggle was now at an end in the religious sphere. In the course of the third century B.C., a plebeian became chief pontiff (*pontifex maximus*) and general director of the curies (*curio maximus*). The plebeians were excluded only from politically unimportant priesthoods, such as those of the flamens of Jupiter, Mars, and Quirinus, and of the king of sacrifices (*rex sacrificulus* or *sacrorum*).

The Valerian Law of Appeal of 300. — The liberal tendency of the new leaders resulted in the passage of a third Valerian law in regard to the right of appeal. This law probably revised and supplemented the previous enactments, established more severe punishments for violations of them, and may have compelled even the dictator henceforth to allow appeal.

A better administration of the criminal law in minor cases and of police matters was secured by the institution of a board of three commissioners (*tresviri capitales* or *nocturni*), about 289.

The Third Secession. — During the latter part of the fourth and the early years of the third century Rome founded a number of colonies. The chief object was no doubt to secure conquered territory, but at the same time thousands of poor Romans were sent to these colonies, and in this way improved the condition of those remaining at home, as well as their own. Still the burdens of the severe wars that followed involved the citizens of the lower classes once more in debt. The harshness of the creditors in collecting what was their due increased the distress and the discontent. Some plebeian tribunes then proposed a law in regard to the cancellation of debts. The senate refused to agree to the law, and a struggle ensued which led to a third secession about 287.

The plebeian debtors went to the Janiculum. Quintus Hortensius, a plebeian, was thereupon chosen dictator. He succeeded in restoring peace, but only on condition that important concessions should be made to the people. Amnesty was no doubt granted to all and measures of relief for the debtors were passed.

The Hortensian Law concerning Plebiscites. — As it seemed expedient to establish once for all the unconditional valid-

ity of plebiscites, Hortensius carried a law declaring that they should be binding on all citizens, and hence be equal to the laws passed by the whole people. It was no doubt further enacted that the previous approval of the senate should not be legally necessary (*cf.* pp. 57, 74).

The plebeian tribunes now had the same power to propose laws as the consuls, and it was appropriate and useful to confer on them similar privileges and to subject them to the same control. Perhaps they now for the first time obtained by law a seat in the senate, and the right to address, convene, and consult that body. They were in consequence expected to lay all bills before it, as was the practice of the consuls. The senate then had an opportunity to bring its whole influence to bear on them. It might also make use of them when it opposed the other magistrates. Thus it gained more than it had lost.

Provision respecting Market Days.—To Hortensius is ascribed also another enactment, which may have been a part of the preceding law. The first day of the Roman week (*nundinae*) was a holiday and market day, on which neither the popular assemblies could meet nor could the courts be in session. On this account it had been a convenient time for meetings of the plebeian assembly. So far as possible, it was now reserved for the administration of justice, and could no longer be chosen for meetings of the plebeians. The result was that the number of days on which plebiscites could be passed was greatly diminished, that fewer persons attended the meetings of the plebeian assembly, and that these could be more easily influenced. Besides, a suspensive veto of popular action could be exercised by the proclamation of festivals (*feriae*), and was in fact later exercised by the mere decree of the senate. A similar restriction of the activity of legislative bodies is effected at the present time by making the sessions of state legisla-

tures biennial, and by limiting them, for instance, to ninety days.

The Maenian Law. — During the early part of the third century, possibly in connection with the third secession, the Maenian law was passed, directing the patrician senators to sanction (or reject) elections in advance in the same manner that the Publilian law prescribed in the case of laws (p. 74). From now on this power of sanction (*patrum auctoritas*) was simply a formality.

End of the Strife. — The Hortensian laws ended the two hundred years' strife between the patricians and the plebeians. Not only had the orders been equalized, but some of the patrician privileges had been converted into legal disabilities. Only the patricians, however, could fill the office of interrex, and occupy the very important position of first senator (*princeps senatus*); and custom had established a principle of distribution which for generations gave the patrician order a far larger share of the chief offices and priesthoods than numerically or otherwise it was entitled to.

CHAPTER VII.

REVIEW OF THE CONSTITUTIONAL DEVELOPMENT, 509–287 B.C.; AND A SURVEY OF THE POLITICAL DEVELOPMENT, 509–268 B.C.

I. The Citizens and the Assemblies.

Character of the Period. — The chief and distinctive feature of the second period is the gradual equalization of the orders. The plebeians accomplished this result by inconsistent methods: they established a special organization originally outside the constitution, — an incipient state within the state, — and they sought to obtain the same rights as the patricians under the constitution. In this manner they secured equality of rights earlier than they would have done otherwise, they obtained magistrates and an assembly of their own, and they influenced profoundly the development of the republican constitution. Their conflicts with the patricians during two centuries not only gave to the Roman people an incomparable political training, but also made this the creative, the constructive, epoch of the republic. The laws of this period in regard to the rights and powers of the people, the magistrates, and the senate brought the constitutional development of the republic substantially to a close. The general results were: that the ancient civic equality was in a large measure restored, the rights of the majority of the citizens were extended, the powers of the assemblies were enlarged, and the magistrates became the servants of the senate.

The Rights of Citizens. — At the end of the second period every citizen was legally safer than before from the caprice and violence of a magistrate. Within the mile limit he was not subject to corporal punishment, and he had a right to appeal to the people in all criminal cases involving life or citizenship (*caput*), or a fine exceeding $166, or one-half of his property (*cf.* pp. 30, 51). But the repeated enactment of laws guaranteeing appeal indicates that violations of this privilege were not infrequent; and, in addition, a summary police procedure against the common people was tolerated. When tried on appeal, a defendant could not feel sure that justice would prevail against partisanship and political interests in the popular assembly; and the administration of justice in criminal cases continued to be one of the most defective and inadequate branches of the Roman government.

The plebeians, that is, the great majority of the people, had gained a far larger share in the government than before. They were eligible to nearly all the offices of state, had magistrates and an assembly of their own, and were well represented in the senate. They had each at least a formal right of suffrage in the centuriate assembly, and all members voted on an equality in the assemblies based on districts (*concilium plebis* and *comitia tributa*).

The Powers of the Assemblies. — Since 367 the assemblies elected annually not only consuls, but a praetor, plebeian tribunes, aediles, quaestors, and other officials, and every few years also censors; and they decided a larger number of cases on appeal than at the beginning of the second period. They passed laws in far greater number and of wider scope than in earlier times. Far the larger share of the new powers fell to the democratic assemblies. Besides, the centuriate assembly was no longer hampered by the patrician right of sanction (*patrum auctoritas*, p. 85); and the plebeian

assembly (*concilium plebis*) was liberated from the fetters of senatorial sanction (pp. 83–84), and could alone express the sovereign will of the state.

Character and Influence of the Assemblies.—While their constitutional powers increased, the assemblies began to lose ground in actual influence on the government. This was to be regretted, but it may have been inevitable. When of old the Roman territory comprised a few hundred square miles, and the citizens lived in, or close to, the city, they were able to attend the meetings of the assemblies in full numbers, and could learn the facts and grasp the simple questions of domestic policy and of their relations to neighboring towns. But henceforth, when some three hundred thousand voters were scattered over a large part of the Italian peninsula, the great majority of them could not, under ordinary circumstances, attend the meetings, or obtain sufficient information on public questions, or master the problems in the domestic and foreign policy of Rome, the most powerful state in Western Europe. As a rule, comparatively few attended, and the composition of an assembly depended largely on accident, on the person who had called the meeting, or on the city populace. The Roman statesmen did not in any adequate way try to secure a larger or better attendance. On the contrary, by taking away the most convenient days for the plebeian assembly (p. 84), they had done just the opposite. Moreover, those who did meet were not always able to form an intelligent opinion of the questions at issue, since a magistrate alone could convene an assembly, and he had the right to prevent all debate and all amendments. It became customary for the assemblies to assent to everything proposed; and, so long as the government was harmonious, they neither helped nor hindered the administration. In times of discord they might, however, become very dangerous instruments, since every

resolution of an assembly was, when passed in due form, the ultimate legal expression of the sovereign will of the people.

II. The Magistrates and the Senate.

Powers and Influence of the Magistracy. — It was chiefly the magistrates that had lost what the people gained in regard to elections, cases on appeal, and laws. The weakening of the executive power was in fact one of the most important results of the struggle between the orders. To the original general restrictions of collegiate and annual tenure had been added the rules as to the combination of ordinary curule offices and as to the ten years' interval between two terms in the same office (p. 73). The latter requirement was, however, not strictly enforced as yet. Soon (in 265) the additional regulation was made that no one should fill the censorship a second time.

The Consulship. — Of the individual offices, the consulate had lost the most. At the beginning of the second period it was the only office (*magistratus*) and conferred in a large measure the old regal powers. It was now one of many, and in some respects not even the first. It had been deprived of a number of its most important functions — the appointment of the quaestors, the census, and the financial administration, civil and police jurisdiction, and the choice of senators and horsemen (*equites equo publico*). Besides, it had suffered greater loss than the formal change in the constitution indicated. Owing to the influence of the senate, the consuls did not always select independently their separate spheres of action (*provinciae*) by mutual agreement (*comparatio*) or the drawing of lots (*sortitio*). They obeyed the senatorial instructions in concluding treaties of peace and alliance, and they even allowed the senate practically

to suspend them from office, as in practice the appointment of a dictator depended on a senatorial decree. In brief, they usually acted as the loyal agents of the senate.

Dictatorship. — Even the dictatorship was limited in power. In 363 a dictator was appointed solely for the performance of a religious ceremony. He, to be sure, disregarded this limitation of his constitutional powers, but every subsequent dictator considered himself bound by the restrictions issued when he was appointed. Furthermore, by the third Valerian law the dictator was probably obliged to grant appeals.

The Plebeian Tribunes. — The plebeian tribunes, on the other hand, had acquired larger powers. They were originally elected to protect the humble and weak against the violence and injustice of the magistrates. This object was never attained nor was it directly attainable. But they exercised their jurisdiction especially in bringing ex-magistrates to justice for misconduct in office, and in so far served as a check on them and protected the people. Their power to secure the passage of laws was largely enhanced by the greater importance and the free action of the plebeian assembly (pp. 83–84). In addition they had obtained a seat in the senate and received the characteristic prerogative of supreme magistrates — the right to convene and consult the senate (*jus cum patribus agendi*). In city affairs they were to a certain extent a second supreme executive.

In their new position they no longer represented the plebeian class, but the whole people. In the course of time they lost even their popular character, — the very reason for their existence, — and became one of the most common and serviceable instruments of the senate for managing the citizens and controlling the other magistrates. Tribunician opposition to the senate was a rare occurrence, and could

ordinarily be put down without difficulty. Nevertheless, the tribunate remained in law an exceedingly powerful magistracy and a means of progress or revolution.

General Influence of the Senate. — The senate had surrendered its right to approve or reject tribunician bills, and formally it had acquired no new constitutional powers; but it exercised a decisive influence on elections, legislation, and administration. In general its advice was law. Its former dependence on the magistrates was changed into domination. This result was due chiefly to the collegiate and annual tenure and the multiplication of the magistracies, but also to the manner of choosing senators and to other circumstances. In consequence of the Ovinian plebiscite those who had held a curule office, and perhaps those who had filled other offices, became senators, not by the arbitrary choice of a magistrate, but virtually because of their election by the people. They formed the main body of the senate, the part of it in whose hands the government was concentrated. The senate was thus to a certain extent a representative body — an approach to the Teutonic invention of representative government.

Its Influence on Legislation. — Every new project of law was first laid before the senate, and scarcely ever did a magistrate venture to submit a bill to the people without the advice and consent of this body. If he attempted to be independent, the senate might direct another magistrate to intercede against him, or, with the aid of the priests, it might annul a law whose passage he secured, or prevent its execution. The senate claimed also in extreme cases the right to dispense, or exempt, particular persons from the operation of a law. The customary proviso that the people should ratify the proceeding was practically of little consequence.

Its Influence on Elections. — Under ordinary circumstances the senate was able to control the elections and even appointments to the dictatorship. It usually defined the official spheres of the consuls and in some degree those of other magistrates. It had begun by its mere decree to extend the terms (*imperium prorogare*) of magistrates on duty outside the city, who then discharged their functions in place of a consul or praetor (*pro consule, pro praetore*). This power was almost on a par with the right of election.

Its Influence on Administration. — The senate was supreme in administrative affairs. It exercised a governing influence on foreign relations, the condition of the Roman subjects and allies, the management of the public domain, public works, and the whole system of finance, — in fact, on every matter of general and permanent importance. Unless authorized by a senatorial decree, no payment could be made from the public treasury except to the consul. But in general the senate did not interfere in the details of judicial and military administration.

Senatorial Government. — While the senate had no doubt always been an important constitutional organ, it was now the chief factor in the government. It contained all the political sagacity and statesmanship of Rome, and governed by virtue of its capacity for government. It acted with partiality in domestic affairs that affected the landed and moneyed interests of its members, but in foreign affairs it represented the state in a manner worthy of the sovereign of the West. It enabled the Roman people to attain national unity under a system of self-government — the only instance in ancient times — and to maintain this government for more than two centuries. In political sagacity and consistency, in patriotism, courage, grasp of power, and tenacity of purpose, the Roman senate was the foremost political body of all antiquity.

III. Rome in League with the Latins and the Hernici.

League with Latins and Hernici. — While the struggles between the orders were going on, the Roman republic almost constantly waged war with its neighbors, but issued far greater and stronger from the foreign as well as from the domestic conflicts. At the very beginning it was forced to cede the territory north of the Tiber to the Etruscans, but probably recovered it within a few years. When, soon afterward, the Latins rebelled against its leadership, it reassumed for a time its old legal position, and in 493 concluded a treaty with them apparently on equal terms. In 486 the Hernici joined the league and obtained full equality in council and in the division of spoils and conquered territory. The alliance with the Hernici was a master-stroke of Roman diplomacy.

The wars of the next forty years did not result in any permanent conquests of importance. Then, in the course of the years 442–393, a number of successes followed. Ardea, Veii, Circeii, and other towns were captured. The Gallic invasion (in 388) did not cause the loss of the new acquisitions. In southern Etruria, in fact, the Romans were able, as early as 387, to organize four new districts (*tribus*) in the territory they had conquered, and to establish two Latin colonies, that is, colonies of people with Latin rights (p. 94). A little later they founded two other colonies in the Pomptine region.

Superiority of Rome in the League. — Rome possessed a great advantage, because it was equally powerful and more harmonious than the other members of the league. It greatly increased its strength through the recent territorial acquisitions, which it did not divide equally according to the

terms of the alliance with the Latins and the Hernici. The Latin colonies, which were nominally federal, had been founded chiefly by Romans; and they increased the power of Rome rather than that of the league. Rome acquired the exclusive right to declare war against foreign states and to conclude treaties with them. The commander-in-chief was always a Roman; so were ordinarily the chief officers, even those of the federal contingents (*praefecti sociorum*). Nevertheless the league was required to furnish as many troops as the Romans for the wars, which were practically waged for the benefit of Rome.

Latin Rights. — The individual citizens within the league retained their old rights. They enjoyed full equality in regard to contracts and ownership (*jus commercii*), — for instance, in acquiring and disposing of real estate and in the making of wills. Perhaps they also possessed the right of intermarriage. Besides, wherever within the league a citizen of a federal town settled, he became under certain restrictions a citizen; for example, an emigrant from Praeneste became a Roman citizen by settling in Rome. In later times he was also required to declare his intention of changing his residence. These originally reciprocal privileges were named Latin rights (*jus Latii* or *Latium*).

During this epoch (509–384 B.C.) the Latin communities, through Roman influence, abolished the monarchical and adopted the republican form of government.

Reorganization of the League. — The Latin league was probably reorganized about 384, and its membership was fixed once for all. It consisted of thirty members competent to vote in the federal assembly, and seventeen others entitled to participate in the Latin festival (*feriae Latinae*). The members were in the main old Latin towns, but some were Latin colonies. Henceforth Latin communities incorpo-

rated with Rome were not erased from the list, nor were Latin colonies included in it. The later colonies, moreover, were granted the rights of commercial intercourse and probably of intermarriage with Rome, but with no other member of the league. About the same time (*ca.* 367) the constitutions of the Latin communities were changed by the institution of two aedileships in each, and thereby made to resemble the Roman constitution more closely than before.

Revolt of Latins and Hernici.— The supremacy of Rome in the league imposed great burdens on the Latins and Hernici, and excited discontent also through acts of injustice. They were almost ready to secede. The capture of Rome in 388 furnished them an opportunity, and the reorganization of the league and the definite occupation of the Pomptine region may have exasperated them. No concerted secession took place, however; but numerous Latins joined the enemies of Rome as volunteers, and a number of Latin towns seceded. Rome subdued these without any great difficulty, and about 381 compelled one of them, Tusculum, to surrender its independence and to receive Roman citizenship (*civitas cum suffragio*), but allowed it a certain amount of local self-government, including magistrates and an assembly of its own. This was the first instance of the incorporation of a whole community as such.

Rome sustained a more severe struggle with the Hernici, but was victorious. It renewed the treaties with the Latin and Hernican leagues about 358, probably on terms more favorable to the Romans than before. The simultaneous organization of two new districts in the Pomptine region shows the steady advance of the Roman power.

Incorporation of Caere. — About the same time three Etruscan towns took up arms against Roman encroachments. One

of them, Caere, was forced about 353 to surrender half its territory, received citizenship without political rights (*civitas sine suffragio*), and with very restricted rights of self-government, as a Roman official (*praefectus*) administered justice there and seems to have superintended the census. This was the first instance of such incorporation.

Dissolution of the Latin League. — After the renewal of the treaty, exasperation prevailed among the Latins. The federal assembly resolved not to furnish its contingent to the Romans. Later nearly all the old Latin towns and several Latin colonies rose in arms against Rome. The democratic party in Capua joined the revolt. The Romans early gained a decisive battle, and brought all the towns into subjection by 338. They now transformed the Latin league into an association for celebrating the Latin festival. In place of concluding one treaty with the league, they dealt with the federal towns separately. A few of the old Latin towns and the colonies that had remained loyal to Rome lost the right to conclude treaties with any community whatever except Rome, also the privilege of intermarriage, and temporarily that of commercial intercourse with any others than the Romans. But they retained their formal independence, and most of them also their former privileges in other respects. The other old Latin towns and Latin colonies forfeited their independence and were incorporated into the Roman state. Several were put on the footing of Tusculum, which kept its old position. One or two others were granted about the same rights as Caere. A Roman colony, that is, a colony of people that possessed the rights of Roman citizenship, was established at Antium, and the old inhabitants became Roman citizens. Another colony was afterward established at Tarracina.

Incorporation of Volscian and Campanian Towns. — At the same time the Romans established and confirmed their dominion in the southern Volscian and the Campanian territories. The towns were for the most part given citizenship without political rights, but the nobility of Capua received full citizenship. The administration of justice seems in general to have been in the charge of Roman officials (*praefecti jure dicundo*). At any rate, this was the case in later times.

In consequence of the increased number of Roman citizens and the assignments of land, especially in the Latin territory, two new districts (*tribus*) were organized in 332. Afterward numerous allotments of land in the Privernate and Falernian regions led to the formation of two more districts in 318.

New Latin Colonies. — As a final measure, to insure their dominion in this part of Italy, the Romans founded a Latin colony at Cales in 334, and afterward another at Fregellae. They gave to these new colonies (*coloniae novae*) the privileges of the older colonies, but apparently with the exception that, on returning to Rome, their inhabitants were not to become Roman citizens unless each had left a son in his respective colony. The fifteen Latin colonies founded in 334–273 were established on these terms.

The Last Latin Colonies of the Republic. — The last twelve Latin colonies founded during the republic did not obtain the right of intermarriage with Rome, and their citizens could secure Roman citizenship only by filling magistracies in their respective colonies. Of these colonies Ariminum (founded in 268) was the first, and Aquileia (established in 181), the thirty-ninth of the whole number, was the last.

IV. The Conquest and Organization of Central and Southern Italy.

Conquest of Central Italy. — Through their admirable persistence and thoroughness in securing conquered territory, the Romans were now ready for the decisive conflict with the Samnites, who were at least the second power in Italy. The second Samnite war lasted with interruptions for more than twenty years. The old treaty between Rome and Samnium was then renewed, but the Romans were in reality victorious. To remedy the evils of annual changes in the chief command of the armies, they made use of extensions of the supreme authority (*prorogatio imperii*), of dispensations from the rule of a ten years' interval between two terms in the same office (p. 73), and of dictatorships. They displayed their usual sagacity in founding Latin and Roman colonies. Incidentally they subdued the majority of the Hernican towns, which had rebelled, and gave them citizenship without political rights. The old foes of Rome, the Aequi, were also punished. When they rebelled a second time, they were quickly conquered, and two new districts were organized in the territory of the Aequi and Volscians in 299. The third Samnite war had in the meantime begun, and in 290 the Samnites were compelled to conclude peace. They remained theoretically independent, but lost their position as a leading nation. In the same year the Sabines were incorporated with Rome and received citizenship without political rights.

Conquest of Southern Italy. — The Romans were the masters of central Italy, but they had long ago abandoned a defensive policy and now endeavored to become the lords of the whole peninsula. They soon interfered in the affairs of southern Italy. Within a few years they waged the war

with Pyrrhus, and gained the victory after a hard struggle. After the departure of Pyrrhus and the surrender of Tarentum, in 272, they were the masters also of southern Italy.

The Sovereignty of Rome. — As the only sovereign power of Italy, the Roman republic now occupied a position of more or less definite supremacy over every important community or state south of the Celtic and Ligurian frontiers as far as the strait of Messana. The inhabitants of these communities may be divided into three classes, each with its own gradations of rights, — citizens, Latins, and other allies.

The Roman Citizens. — Full citizenship was granted as extensively as was possible without abandoning the idea that Rome was to be a city state. The citizens dwelling outside of Rome, even those in the Roman colonies, had at first no local self-government of any importance. But when, about the close of this period (268), Latins and Sabines without political rights (*sine suffragio*) were granted full citizenship, they retained their former restricted local self-government, and furnished in the course of time the model for the later Roman municipal organization. The territory at this time occupied for the most part by Roman citizens extended northward about as far as Caere, eastward to the Apennines, and southward to Tarracina. But some Latin towns were found within, and several Roman towns outside, these limits.

The citizens without political rights had in other respects the same rights and duties as the full citizens. The Roman laws were equally binding on them, and justice was administered among them by the praetor or his deputies. Those on a better footing, such as the inhabitants of Capua, enjoyed to a large extent local self-government; others, in an inferior position, did not.

The Latins. — Of the Roman subjects, the Latins formed the most important and the most favored class. All the important towns of the old Latins (*prisci Latini*), except Tibur and Praeneste, had by this time (in 268) either perished or been incorporated with Rome. The Latins of later times were almost exclusively the inhabitants of the Latin colonies, founded in the main by Roman citizens, who thereby lost their citizenship and received Latin rights. About twenty-seven Latin colonies had been established before 268. Besides the privilege of securing Roman citizenship, of commercial intercourse, and of intermarriage (p. 94), the colonists were usually allowed to occupy a part of the Roman public domain and to participate in state leases and contracts. They regarded Rome as their mother city and felt the ties of a common language and law, and common customs. Scattered over central and southern Italy, they became more and more the main support of Roman dominion and the pioneers of Roman civilization in Italy.

The Other Allies of Rome. — The position of every other community of any significance depended simply on the terms of its treaty with Rome. The terms varied greatly in different cases. Some allied communities, for example the Hernican, were placed in time on the same footing as the Latins; others, such as Naples, retained their local self-government and other privileges; while others, Tarentum for instance, were treated in an almost despotic way.

The Policy of Rome. — "Divide and rule" was the policy of Rome. All national leagues were dissolved or rendered insignificant, and in general no allied community was granted the right of commercial intercourse, or of intermarriage, or of conferring and taking joint action, with any other. Furthermore, an important community, such as

Capua, might be divided against itself, in so far as its constitution was remodeled after that of Rome, and a party of local aristocrats loyal to the Romans was thus formed. This policy of isolation and division was effectual.

Roman Government. — As the leading power of Italy, Rome claimed and exercised the exclusive right to make war, to conclude treaties, and to coin money for general circulation. It acted as an arbiter between the different communities, and protected them against foreign and domestic foes, such as the Gauls and the mutineers at Rhegium. It required, in return, contingents from the Latins and other allies, probably in the form of a fixed number of infantry, cavalry, or ships. This involved an indirect taxation, as each community equipped and paid its own contingent. But Rome had the wisdom to avoid taxing its allies directly, to allow them local self-government, and to govern them with moderation. To facilitate the work of supervision and control, it instituted in the allied communities a municipal census corresponding to that of Rome, and in 267 it established four Italian quaestorships. These magistrates were primarily to improve the navy (hence called *quaestores classici*) and were stationed respectively at Ostia, Cales, Ariminum or Ravenna, and possibly at Lilybaeum. Their chief duties were no doubt to collect the Roman revenues and to levy troops and ships within their districts.

Central and southern Italy had become a political unity, and Rome now aimed to make it a national unity. But to Latinize so many peoples different in language, manners, and civilization was a task requiring the work of centuries. In the meantime, however, the grand political organization of Italy stood the strain of two great wars, and testified to the greatness of Roman character and statesmanship.

THIRD PERIOD.

THE SUPREMACY OF THE SENATE, 287–133 B.C.

CHAPTER I.

THE NEW ARISTOCRACY AND THE FIRST PUNIC WAR, 287–241 B.C.

I. The New Aristocracy.

The Origin of the New Aristocracy. — After the passage of the Hortensian laws the Roman republic seemed to unite in the happiest way monarchic, aristocratic, and democratic elements. The aristocratic elements predominated. While the Licinian law annulled the great legal distinction between plebeian and patrician, and to that extent restored the old civic equality, it did not abolish the patriciate, but provided, so to speak, for the gradual creation of new peers and furnished the basis for a new aristocracy.

Basis and Membership of the New Aristocracy. — This aristocracy may be called new in so far as it rested on a new principle and consisted in part of new members. The patriciate was based on patrician descent, the new aristocracy on descent from a curule magistrate — that is to say, a Roman citizen who had been dictator, consul, censor, praetor, master of horse, or curule aedile. If any of his ancestors in the male line had ever filled such an office, a Roman was a noble (*nobilis*), a member of the new aristoc-

racy. But if none had, he was a new man (*novus homo*), a man without illustrious lineage. A patrician seems, however, never to have been considered a new man; he had in any case the distinction of birth, and usually of social position. It is possible, too, that all patrician families by this time had one or more ancestors of curule rank. After the admission of the plebeians to all the ordinary curule magistracies and the passage of the law respecting a ten years' interval between two terms in the same office (p. 73), the number of noble plebeian families increased somewhat rapidly; and the new aristocracy came to consist of a decreasing number of patrician, and an increasing number of plebeian, families.

Privileges and Insignia of the Aristocracy. — The most ancient privilege of the aristocracy was no doubt the right enjoyed by the descendants of a deceased curule magistrate to place a wax mask of him in the family hall, and to have it carried in the funeral procession when a member of the family had died (*jus imaginum*). The aristocracy had, moreover, by law or custom certain insignia — the gold ring (*anulus aureus*) of the men, the silver-mounted trappings (*phalerae*) of the young horsemen, the toga bordered with purple (*toga praetexta*) and the golden amulet case (*bulla aurea*) of the boys — earnests of future magistracies and triumphs. These insignia may have existed in earlier times, but they gained their political importance in consequence of the Licinian and subsequent laws. They seem as yet to have been worn exclusively by the aristocracy, and were significant in a state where civic equality was observed so strictly even in matters of appearance. Like the patricians, the plebeian aristocrats began to employ a hereditary surname (*cognomen*). Distinctions existed even among the nobles. Former curule magistrates of the plebeian class were entitled to wear the kind of shoes

(*calceus mulleus*) used by the patrician, and later by all, senators. Every senator wore two perpendicular purple stripes (*clavus*) on his tunic (later named *tunica laticlavia*).

Character and Aim of the Aristocracy. — The new patricio-plebeian aristocracy may be regarded as consolidated and harmonious after the passage of the Ogulnian law in 300. At this early epoch it was generous and patriotic. As a rule it placed the public welfare above personal and party interests. It did not rest on the support of the lowest classes — the freedmen and the city rabble. Still it was not satisfied with its honorary privileges, and early endeavored to obtain sole political power in the state by controlling the senate, the equestrian centuries, and the censorship.

Political Position of the Aristocracy. — It probably did not attempt, nor would it have been able, to exclude all new men from the curule offices and the senate. But as it comprised all those who had precedence and the greatest influence in the senate, because they were present or past curule magistrates, it was in a position to convert the senate into an organ of its own.

It could not in the same way, or to the same extent, exercise a direct control over the assemblies, but it usurped the most influential suffrage in the centuriate assembly. The institution of voluntary service in the cavalry (*equites equo privato*) had diminished the military importance of the equestrian centuries (*equites equo publico*), and made it possible to disregard the question of fitness for military service at the periodic review and selection of these horsemen. Hence it became a rule that the senators should remain and vote in these centuries; and the other places were in the main assigned to young nobles. The military system of the state suffered decidedly from this change, but the nobility gained a great advantage. They could now usually

control the votes of the eighteen centuries, and through them the votes of the first Servian class — in all, ninety-eight votes, or a majority.

Under these circumstances the censors, who selected and removed at discretion both senators and horsemen, became very important magistrates. The existence and exercise of the censorial powers also gave to the senate a certificate of good character, an invaluable moral prestige, and might serve as a check on independent men or disagreeable opponents. As a consequence the nobles used their best endeavors to elect their own men to the censorship and to maintain the arbitrary authority of the censors.

In this position, based chiefly on the control of the senate, the equestrian centuries, and the censorship, the new aristocracy was able, in case it should so desire, to manage the government and in a great measure to decide the constitutional development of the future.

The New Opposition. — The development of a new aristocracy naturally led to the gradual formation of a new opposition. The struggle for supremacy was no longer to be between patricians and plebeians, but between the nobility and the common people, between the rich and the poor. The opposition claimed to represent the lower classes, especially the small farmers. The first of the popular leaders at this time, Manius Curius and Gaius Fabricius, were new and comparatively poor men. Both filled the consulship and the censorship. Throughout their careers they opposed aristocratic arrogance and defended the common people.

Era of Good Feeling. — The interval between the last secession and the first Punic war formed, however, an era of good feeling. There were no constitutional or economic issues and there was no party strife. Not that the governing class — the aristocracy — had adequately and designedly

aided the lower classes, and relieved the economic distress which caused the recent secession; but the rapid extension of Roman territory afforded the noble and the rich sufficient land for exploitation, without oppressing the lower classes at home. Furthermore, the extension of Roman sovereignty over Italy led to the founding of many large colonies, which furnished thousands of poor people with farms and relieved the population of Rome. The flourishing condition of the Roman finances usually made it unnecessary to levy any temporary taxes (*tributa*), and the increase of capital probably reduced the rate of interest. The middle class — the mainstay of the republic — was strengthened also by the wise practice of incorporating numerous subject communities with the state, and seems to have been in as good a condition now as at any time during the republic. Finally, foreign affairs overshadowed all domestic questions, and glorious victories silenced opposition.

II. The First Punic War and the First Roman Provinces.

Difficulties of the First Punic War. — The national concord was put to the severest test in the first Punic war. The Romans at first did not realize the magnitude and the difficulties of a war with the chief naval power of the Mediterranean. The senate was excellently trained and qualified for the management of Italian affairs; and the Roman military system, with its splendid discipline and its principle of collegiate command, was well adapted to the ordinary Italian wars. In these the campaigns were usually short, strategy played a subordinate part, and Roman tactics and personal prowess carried the day. But in the first Punic war it was necessary to plan and direct operations extending over long periods and at comparatively great distances

from Rome; above all, to build and sail a fleet and to lay siege to maritime fortresses, in which case the coöperation of military and naval forces was necessary.

Conduct of the First Punic War. — Under such circumstances the lack of military training on the part of the Roman commanders-in-chief, the consuls, and especially the evils of the collegiate tenure and the annual changes of the chief command, became manifest. To avoid the disadvantages of having new men, capable generals were at times granted an extension of their authority (*prorogatio imperii*). The remedy was ineffectual, as they were then subordinates of the consuls. In other cases able commanders were exempted from the rule of a ten years' interval between two terms in the same office (p. 73), and were reëlected, but none obtained a third consulship. The old stand-by — the dictatorship — was of little account because of the short term of this office. It was resorted to in 249, when the incompetent consul, Publius Claudius Pulcher, practically disobeyed the senate by appointing one of his freedmen to the dictatorship. The new dictator was compelled to resign, and Aulus Atilius Calatinus was appointed in his place. The latter was the only dictator who ever commanded an army outside the Italian peninsula. The aristocracy thenceforth maintained the principle that for religious reasons a dictator could neither be appointed, nor wage war, outside Italy.

Establishment of a Second Praetorship. — The establishment of a second praetorship about the year 242 appears to have been in part a war measure, intended to place an additional magistrate largely at the disposal of the senate. It was the only important formal change in the constitution during the war. The new praetor had, as his primary function, jurisdiction in cases to which one or more parties were for-

eigners (for this reason he was later called *praetor peregrinus*). The other praetor (*praetor urbanus*) continued to exercise in person or through deputies (*praefecti jure dicundo*) jurisdiction in all cases between citizens with or without political rights.

Poor Leadership of the Romans. — It was bad enough that every politician who became consul was by virtue of his office commander-in-chief of the army and entitled to take the field, but it was worse that he was also an admiral, and had the right personally to command the fleet. The incompetence and recklessness of several Roman admirals offset the heroic efforts of the nation in creating four large fleets, and caused the worst disasters of the war.

If the senate had been equal to the difficulties of the conflict, it might have introduced unity and consistency into the conduct of the war by exerting its influence on the magistrates and on the people, but it had not as yet outgrown its peninsular ideas and policy.

Losses and Moral Effects of the War. — As a consequence of their defective and faulty administration, the Romans suffered terribly in the war. The number of citizens (*capita civium*) enrolled in the census as liable, or entitled, to perform military service (*qui arma ferre possent*) fell, within a few years (between 252 and 247), from two hundred and ninety-seven thousand to two hundred and forty-one thousand — that is to say, more than one-sixth of the whole number perished, without including the losses of the allies. The economic losses in ships and war material, and indirectly in the paralysis of trade and industry, must also have been enormous.

Though less apparent and less easily traced, the moral effects of the war were no doubt very important. The people as a whole remained morally sound, and displayed a

magnificent patriotism; but individual instances of degeneracy were multiplying. A public gladiatorial fight was first introduced at Rome in 264, religion became more and more a matter of form, and the censors of 252 found it necessary to expel sixteen senators, and to punish four hundred aristocratic youths in the equestrian centuries for insubordination.

Political Results of the War. — The development of distinct classes went on. Under the critical circumstances of the time, it was safer to reëlect well-known and capable men; accordingly new men had but scant opportunities for political advancement. Still, the nobility does not seem to have opposed them on principle. Tiberius Coruncanius, though a new man, was the first plebeian who was elected chief pontiff (*pontifex maximus*), and was afterward appointed dictator. But the problems of peace and war were becoming more and more difficult — too difficult, in fact, to be solved by any Cincinnatus hastily summoned from the plow. As a result the aristocracy was rising in statesmanship and generalship above the level, not only of the ordinary people, but also of the popular leaders. In consequence of the greater number of offices, which were in the main filled by nobles, the aristocracy formed a larger proportion of the senators, and to that extent lost an important point of contact with the common people.

The New Roman Policy. — At the same time that the people came to occupy a position of inferiority to the aristocracy, they began to assume an attitude of greater superiority to the Roman subjects, or allies. When, in 241, two new districts (*tribus*) were organized, one of them, the thirty-fifth of the total number, was named *Quirina*, and was probably intended to be the last. If so, the nobility, and perhaps the people as well, had already concluded to grant full

citizenship to all who were Roman citizens without political rights (*sine suffragio*), and forever to exclude the Latins and the other Italians from citizenship. At any rate, the subsequent Roman policy was in accordance with such a plan.

The Province of Sicily. — The chief political result of the war was the acquisition of by far the larger part of Sicily, which formed the first Roman province (*provincia*). This marks the beginning of the provincial system, which was one of the most potent influences for evil during the two last centuries of the republic. Unlike the allies, the inhabitants of Sicily, with the exception of some favored communities, were taxable, but did not usually furnish troops; and their status depended, not on a treaty, but simply on Roman laws and ordinances. The provincial administration was organized solely with a view to Roman convenience and profit. The governor enjoyed all the Roman military powers (*imperium militiae*); and martial law, which should have been exceptional, was ever in force. The Sicilian taxes and tithes, moreover, were farmed to capitalists, who reaped a rich harvest. In commerce, also, Roman citizens enjoyed advantages at the expense of the provincials.

Annexation of Sardinia and Corsica. — The Romans regretted that the war had not resulted in the acquisition of Sardinia and Corsica as well as of Sicily. When the opportunity presented itself in 238, they robbed the Carthaginians of Sardinia and at the same time occupied Corsica. The senatorial form of government was in some measure conducive to such treachery, on account of the want of individual responsibility. The Romans proceeded to conquer the inland districts of the islands, and organized them as a province a few years afterward.

Provincial Praetors. — In 227, the number of praetors was raised to four, one of whom was to be governor of Sicily, and another the governor of Sardinia and Corsica. This arrangement limited geographically the authority of the consuls, as the provincial praetors were in their own spheres commanders-in-chief, supreme magistrates and judges. Only the administration of the provincial finances was withheld from them and given to quaestors.

CHAPTER II.

THE LAWS OF GAIUS FLAMINIUS AND THE REFORM OF THE CENTURIATE ASSEMBLY, 241–220 B.C.

I. The Agrarian Law and the Policy of Flaminius.

General Conditions. — Since the passage of the Licinian law in 367, the Roman republic had made very extensive territorial acquisitions, and had organized ten of the thirty-five districts (*tribus*). Thousands of poor citizens had been provided with farms, in connection with the establishment of the Latin and the Roman colonies, several of which had been founded during the recent war. Allotments of public land had also been made. But no agrarian law seems to have been passed, and there are no records to show that those who occupied more public land than the maximum of three hundred and eleven acres (p. 66) were prosecuted after the year 298. Probably this provision was disregarded with impunity by covetous nobles. In any case, the aristocracy secured proportionately the lion's share of the advantages derived from the public domain. The first Punic war had caused distress and impoverishment among the poorer citizens of Rome, and they were not in a position to profit by the direct and indirect sources of gain which the new provinces offered to the nobility and the rich. Nevertheless, no measure of relief seems to have been proposed for a number of years.

Agrarian Law of Flaminius. — Under these circumstances the new opposition (p. 105), which for a long time had been dormant, revived under the leadership of a new man, Gaius

Flaminius, the first Roman statesman of his generation. As a plebeian tribune, he proposed in 232 an agrarian law, providing that the Picenian and Gallic lands in the neighborhood of Ariminum (*ager Gallicus et Picenus*) should be assigned to individual Roman citizens as full owners. Hitherto these lands had been occupied by the nobles and the wealthy. The new law, if enacted, promised to bring numerous settlers into this region, and not only to afford relief to the poor, but also greatly to strengthen this exposed Roman frontier. The settlement of the lands might, however, tend to arouse the Gauls, who within the last few years had renewed hostilities against Rome. The nobles were actuated by self-interest, and probably did not realize what the times demanded. Otherwise they would have proposed that an assignment of land be made at a more opportune time or place. As it was, they simply offered a stubborn opposition. Flaminius could not obtain the consent of the senate to his bill. Nevertheless, he secured its passage in the plebeian assembly — a proceeding not contrary to any constitutional provision, but contrary to constitutional usage. Even then the nobility did not yield, and opposed the execution of the law until the year 228. This obstinate resistance is the first positive evidence that the aristocracy was degenerating into an oligarchy, which considered itself the owner of the state.

Political Effects of the Flaminian Law. — By his agrarian law, Flaminius interfered in the financial administration — one of the oldest privileges of the senate — in a manner that threatened to lead to anarchy. But it was the only way still open to legitimate opposition, the only way in which political stagnation could be prevented. If the nobility had remained patriotic and tolerably just to their fellow citizens, the Flaminian law would probably have had no political effects. But in the degeneracy of later times it

formed a precedent, and showed how either progress or revolution might be promoted, and how the people, or even the rabble, might, as well as the senate, by their own decree transfer public property to their own coffers. The possession of such power undoubtedly tended to demoralize the people, as it was demoralizing the senate, and to convert the popular leaders into demagogues and tyrants.

The Policy of Flaminius. — Flaminius was successful in securing the execution of his law; the Roman citizens were still brave and enterprising enough to emigrate and settle in considerable numbers in the frontier region about Ariminum. He seems to have intended to colonize the entire district between the Apennines and the Po, perhaps the whole valley of this river; and it was probably he who in 218 secured the establishment of the strong Latin colonies, Cremona and Placentia. His wise policy was in part revived after the second Punic war, and the cispadane region became one of the most flourishing in all Italy during the second century B.C. If his plans had met with less opposition and had been carried out on a large scale at an earlier time, the new colonies and settlements might in a measure have checked the Gallic revolts and in so far have impeded the success of Hannibal.

Later Career of Flaminius. — Flaminius was possibly also the author of the institution of provincial governors. He was the first praetor in Sicily, and seems to have proven a good governor, as the Sicilians held him in grateful remembrance.

He was consul in 223. Being recalled by the senate on account of an alleged defect (*vitium*) in his election, he disregarded the summons for a time, then resigned. Afterward he was appointed master of horse by the dictator Marcus Minucius. Perhaps on account of this choice, Minucius

was compelled to resign — ostensibly because a mouse had squeaked and thereby vitiated the auspices taken prior to his appointment. The chief opponent of Flaminius, Quintus Fabius Maximus, who was an augur, once declared in effect that the auspices were simply a means of political control.

Censorship of Flaminius. — During this century the censorship reached the zenith both in its political influence, which seems to have begun with the incumbency of Appius Claudius Caecus, and in its peculiar moral jurisdiction, which was exercised in the choice of senators and horsemen (*equites equo publico*) and the enrollment of citizens. The people, accordingly, expected important measures when, in 220, they elected such an energetic and progressive man as Flaminius censor; nor do they appear to have been disappointed. His colleague was Lucius Aemilius Papus. Flaminius completed the great road from Spoletium to Arminum (*via Flaminia*), and it was probably at this time that he worked most effectively for founding the colonies on the Po. He also built a second circus (*circus Flaminius*), and is thought to have established a second festival (*ludi plebeii*).

II. The Claudian Law and the Aristocracy of Wealth.

The Claudian Law. — The most important work of Flaminius was done in the political sphere. He was conservative, however, and attacked neither the administrative powers of the government, nor its abuse of the auspices for political purposes, nor did he propose any other radical change. He probably inspired — at any rate he advocated — the Claudian law, which forbade senators and the sons of senators to have sea-going vessels of a greater tonnage than about seven tons (300 *amphorae*). This tonnage was considered sufficient for the transportation of the produce of

their estates. This law seems also to have contained a general prohibition against their participating in public contracts (*redemptiones*). By these provisions Flaminius intended to prevent the nobles from employing their public position for enriching themselves. He may have been successful to some extent, but the law could easily be evaded by means of partnerships. On the other hand, it exerted an influence that perhaps had not been foreseen: it tended to make the nobles more than ever a class of great landowners, and in so far increased their competition with the small farmers. Furthermore, it emphasized the distinction already existing between the nobility as a superior governing class and the purely moneyed class, or aristocracy of wealth, which was engaged in trade and commerce, but especially in lending money and in executing government contracts.

The Aristocracy of Wealth. — This aristocracy of wealth may be said to date from the introduction of voluntary service in the cavalry (*equites equo privato*) in 403 (p. 64). It then became the duty of the censors to decide who were qualified to serve in the cavalry. They regularly chose rich men, and in early times they appear to have required of all volunteers the possession of property assessed at about $22,000, or ten times the census of the first class. They established this property qualification also for admission to the equestrian centuries, and promoted the formation of a new privileged class based on wealth. This class was further developed by the change of the voluntary service into an obligation, which seems to have taken place by the time of the second Punic war; but it did not form so close a body as the nobility. This was due to its unstable basis — wealth — and to the fact that the equestrian centuries, which would naturally have become its nucleus, consisted in the main of the senators and young nobles, and

might at times even oppose the capitalists. In a general way, however, the privileges of the nobles and the Claudian law drew the line between the aristocracy of wealth and the nobility; and the possession of wealth, as well as the principle that it was disgraceful to work for pay, distinguished the aristocracy of wealth from the rest of the people.

Growth of the Aristocracy of Wealth. — The new conditions were favorable to this aristocracy. The extension of Roman dominion greatly multiplied the opportunities for trade and commerce, and especially for money-lending, and increased also the number and profitableness of government contracts. Capital was being massed and organized as never before; agriculture was developed and carried on with slaves on the same large scale as in later times. Consequently the numbers, influence, ambition, and greed of the moneyed aristocracy were constantly on the increase. According to a list of the year 225, there were about twenty-two thousand who by age, birth, and wealth were qualified to serve in the cavalry. This number included the nobles in the equestrian centuries, but excluded, for instance, persons past forty-six years of age. The members of the moneyed class filled vacancies in the equestrian centuries and the military tribunates, in so far as they were permitted by the nobles. Henceforth this class, and not the lower classes, usually furnished the new men (*novi homines*), such as Gaius Flaminius; and it began more and more to influence in particular the financial administration.

Insignia of the Aristocracy of Wealth. — In consequence of the influence and power of the class, such of its members as were senators began to assume a part of the insignia of the nobility (p. 103). As senators they had the purple stripes (*clavus*) on their tunics, and appear also to have worn the gold ring. They gave their children the golden amulet

case (*bulla aurea*) and their sons gold rings. Probably all the members of the class dressed their children in the toga with the purple border (*toga praetexta*), and by an easy transition later assumed the gold ring and other distinctions. As a matter of convenience, this class may be called the equestrian order (*ordo equester*) and its members Roman knights (*equites Romani*), although the former term should strictly designate the eighteen equestrian centuries, and the latter those who were, or had been, Roman horsemen.

Civil equality had now perished; and in place of one class, equal before the law, the citizens were divided into the nobility, the equestrian order, and the middle and lower classes.

III. The Reform of the Assembly of Centuries by Flaminius.

Enrollment of Citizens. — When the character of Flaminius and the political conditions of the time are considered, it seems probable that he was the one who reorganized the assembly of centuries.

During the first Punic war the freedmen and their sons (*libertini*) had been needed for the naval service, and had, perhaps for this reason, been permitted to register in considerable numbers in the country districts (*tribus rusticae*) and to enter the Servian classes. Since then they had remained there, either through the leniency of the censors or because the nobility was already willing to retain this pernicious but efficient political support. Flaminius showed his political insight by confining them once more to the city districts (*tribus urbanae*). He may have assigned to these districts also all others who were not freeholders.

Flaminius retained the old census, or amount of property, required for admission to each class, except that he probably reduced the requirement for entrance to the fifth class from

about $242 (11,000 *asses sextantarii*) to about $88 (4000 *asses*), or half an acre of land. In the city districts he probably assigned each citizen to a class according to the value of all his property; in the country districts, according to the amount of his real estate.

Relation of the Districts to the Centuries. — The districts had not been closely connected with the old centuries, but they formed the basis, the foundation, of the reformed centuries. While before this time each district was expected to furnish a contingent to every one of the one hundred and ninety-three centuries, Flaminius now treated every district as a separate whole: he assigned all its members, in so far as they owned sufficient property, to the five Servian classes, in which they formed five separate groups. He divided each group, according to the age of the individuals composing it, into a century of seniors and one of juniors. In this way the members of each district (*tribules*) formed two centuries of every class, or ten complete and distinct centuries in all; and the members of the thirty-five districts formed five classes of seventy centuries each, or three hundred and fifty centuries, in place of the one hundred and seventy Servian centuries of infantry (p. 22).

Centuries of Horsemen, Workmen, and Musicians. — Flaminius probably admitted plebeians also to the six patrician centuries of horsemen (*sex suffragia*), and thus deprived the patricians of one of their few remaining privileges. In other respects he left the equestrian centuries unchanged. He retained the four centuries of workmen and musicians. All the citizens who did not belong to these four centuries or did not have sufficient property or respectability to enter the classes, formed the century, or division, of persons merely enrolled (*centuria capite censorum*). This very large century must have been greatly reduced through the change

in the requirements for entering the fifth class. The total number of centuries was now three hundred and seventy-three, in place of the one hundred and ninety-three Servian centuries (p. 23).

The New Method of Voting. — Each century seems to have had one vote; then one hundred and eighty-seven centuries constituted a majority. Flaminius probably deprived the equestrian centuries of the right of voting first. Henceforth one of the centuries of the highest class was drawn by lot (*centuria praerogativa*) and voted first. Then came the other sixty-nine centuries, the equestrian centuries, and the century of carpenters; next, the centuries of the second class and the century of coppersmiths; then the third class; and, if necessary, the fourth class, and perhaps the centuries of musicians; and, in their turn, the fifth and the century of those simply entered on the roll (*capite censi*). The voting was continued until a majority of all the centuries was reached, but no longer.

Results of the Reform. — The Flaminian reform of the centuriate assembly was the first important constitutional change which the new opposition wrested from the patricio-plebeian nobility, — the first victory of the middle classes. It was popular and democratic in the best sense. The retention of the old requirements for admission to the classes had in the course of time involved an extension of the more valuable suffrage in the classes (pp. 36–37), as the national wealth was constantly on the increase. In addition, the lowest limit of $242 had now been reduced, and this greatly diminished the number of those who had a practically illusory suffrage in the lowest century (*centuria capite censorum*). While before the reform the members of the first class and the equestrian centuries formed more than a majority, and could, if unanimous, decide every issue, they now consti-

tuted less than one-fourth of the three hundred and seventy-three centuries, and at least the second and third classes were always called on to vote. As a consequence, unanimity was not likely to be attained, and even the fifth class might take part in the voting. Moreover, one of the organs of the nobility, the equestrian centuries, lost its prior vote, which seems to have been important as an omen. Still, this omen was probably manipulated, like so many others; and the equestrian vote might agree with the final result, because, like a Maine election, it represented the public opinion without molding it. The reform restricted the arbitrary powers of the censors; since, outside of certain classes of citizens, they could not exercise the same freedom in assigning the citizens to the different districts which they had enjoyed in assigning them to different centuries. Finally, the new organization limited the influence and diminished the value of the suffrage of the freedmen, the natural support of a degenerating nobility, and also of those who owned personal property but not real estate. In general, it favored the middle classes of farmers at the expense of the highest classes, as well as of the lowest; and in so far it tended to prevent the two greatest dangers of the republic — oligarchy and the rule of the rabble.

Importance of the Centuriate Assembly. — But constitutional development, which is largely independent of constitutional forms, had greatly diminished the importance of the centuriate assembly — once the only political assembly. The centuries were henceforward of practical importance chiefly as an assembly for electing censors, consuls, and praetors, and in certain cases for declaring war. Even in these matters, however, they were too dependent upon, and too subservient to, the presiding magistrate and the nobility, and did not exercise the powers and rights which they possessed.

CHAPTER III.

CONSTITUTIONAL CHANGES AND EXPEDIENTS DURING THE SECOND PUNIC WAR, 220–201 B.C.

I. The Opposition and the Military Measures.

Continuance of the Opposition. — In 225 the senate had made an estimate of the military resources and found that the Roman state and its allies could furnish almost eight hundred thousand men capable of bearing arms. Hence, when with a small army Hannibal had entered Italy, and even when he had gained several victories, the Romans were not sufficiently alarmed to sink their political differences and present a united front to the foe. Flaminius and other popular leaders seemed bent on offsetting their achievements as statesmen by their incompetence as generals, and unfortunately they still enjoyed the popular confidence.

The Flaminian Law on Coinage. — Flaminius was elected consul for 217. He secured the passage of a law debasing the silver and copper coinage — an old and yet ever new financial panacea. The silver *denarius*, introduced about the year 269, weighed originally one-sixth of a Roman ounce, but was now fixed at one-seventh (*ca.* 60 grains). Since 269, the *as* of copper had been reduced nominally from twelve Roman ounces (*as libralis* = 5053 grains, or about five-sevenths of a pound avoirdupois), but in reality from *ca.* ten ounces, at first to four (hence named *as trientalis*), then to two (*as sextantarius*), and was now fixed at one ounce

(*as uncialis*). The result was that the copper coins became token money, like the American and English silver coins.

During the last two centuries of the republic, a Roman pound of gold cost four thousand sesterces; consequently, the normal ratio of silver and gold was 11.91 : 1. If the *denarius* is reduced to gold according to this standard, it is worth about five grains of gold, or somewhat more than one-fifth of the American gold dollar of 23.22 grains, or approximately $0.218.

The Downfall of the Opposition. — Flaminius naturally assumed a distrustful attitude toward the senate. When he had fallen in the battle at Lake Trasimenus and his army had been annihilated, the nobility seems to have been conciliatory, and to have left the choice of a dictator and of a master of horse to the sovereign people, as the surviving consul could not be informed of the necessity that existed and be directed to make the appointment. Taught by experience, the people elected Quintus Fabius Maximus dictator, and made Marcus Minucius Rufus master of horse. The over-cautious strategy of Fabius excited the popular impatience, and Minucius fanned the discontent. It was charged that the war was being prolonged purposely for the benefit of the nobility. Then a tribune belonging to the opposition carried the unconstitutional proposal that the master of horse should be given the same authority (*imperium*) as the dictator. Fabius saved his colleague from utter defeat, and made plain the popular mistake, but without avail. A new and inexperienced man, Gaius Terentius Varro, who had been a leading supporter of the above proposal, was elected consul for 216 by the opposition. The result was the battle of Cannae, where seventy thousand Romans fell. The opposition lost its influence with the people, and remained insignificant during the continuance of the war.

Unity of Leadership. — It was now manifest, both to the people and to the senate, — the government and the governed, — that, if the republic could still be saved, the work must begin at home with the establishment of harmony and confidence. To have accomplished this with marvelous magnanimity and abstinence from all recrimination is the imperishable glory of the senate. Taught by the disasters of the first Punic war and chastened by the recent national calamity, the senate rose to the difficulties of the situation and displayed admirable courage, firmness, energy, and tenacity of purpose. It planned campaigns and superintended their execution. Under the leadership of Fabius it remedied to a large extent the great defect of the constitution, that ordinarily there was no provision for one commander-in-chief of all the armies of the republic. This was the more necessary now, when the military dictatorship had practically broken down. Nevertheless, the senate was not always able to persuade the generals to follow its advice, and occasionally the consuls made use of their constitutional rights as commanders-in-chief. The absence of a single supreme commander was, after all, one of the great causes that prolonged the war.

Reëlections and Extensions of Authority. — The senate was more successful in avoiding the annual changes of commanders, which would naturally be the result of the annual term of the magistrates. In accordance with a senatorial resolution, a plebiscite was passed as early as 217, providing that during the continuance of the war in Italy the people should have the right to reëlect ex-consuls at pleasure. After the battle at Cannae, the senate entirely controlled the consular elections, and the time began when the nobility handed down the consulship to its members in regular succession. New men were out of the question, and the old names constantly recur. Fabius and Marcus Claudius Mar-

cellus, the ablest Roman general, who had both been consuls before the war, each held the office five times; and Quintus Fulvius, four times.

The chief means of avoiding a change of commanders was to prolong the authority of a general (*prorogatio imperii*). This was done more extensively and effectively than ever before. For example, Publius Cornelius Scipio, consul in 218, was proconsul in Spain from 217 to his death in 211. Through these extensions of authority, the senate obtained also a sufficient number of commanders for the different fields of military operations. In 211 it went so far as to confer the supreme authority (*imperium*) on all who had been dictators, consuls, and censors.

By such means the senate perhaps came as near securing unity and continuity of military leadership as was possible under the constitution, and at the same time it reached the zenith of its power and influence.

II. The Senate and the Popular Assemblies.

Special Appointment of Senators. — When through losses in battle, especially at Cannae, the number of senators had been reduced to about one hundred and twenty-three, it was considered necessary, in view of the important senatorial functions, to appoint new senators before the next census. Spurius Carvilius, a new man, proposed that two senators from each of the Latin colonies should be given Roman citizenship, and be admitted to the Roman senate. The proposal was rejected with indignation; and Varro, the surviving consul, was directed to appoint the oldest ex-censor as dictator, for the purpose of adding to the senatorial roll. There was already a military dictator, and the new appointment was, for various reasons, the most irregular proceeding of the war. One hundred and seventy-seven new senators

were appointed. Of these, naturally a larger number than usual were persons outside the nobility, belonging for the most part to the equestrian order. This circumstance tended for the time being to confirm the harmony and the friendly relations existing between the nobility and the rest of the people.

Disappearance of the Constitutional Dictatorship. — In order to avoid responsibility, or to conciliate and humor the people, the senate in the course of the war left various matters to the popular assemblies. Besides the election of a dictator and a master of horse in 217, the people in 210 by a plebiscite nominated a dictator and master of horse, who were then in due course appointed. Although sanctioned, or rather proposed, by the senate, this popular interference was doubtless the immediate cause of the disappearance of the constitutional dictatorship; but the fundamental cause was the political danger which this office involved, and the desire of the senate to be supreme. A dictator with the old military authority (*dictator rei gerundae causa*) was appointed for the last time in 216, and after 202 no constitutional dictator was chosen for any purpose whatever.

As a substitute for the dictatorship, the senate thenceforward claimed that in great emergencies it had the power by its final and supreme decree (*senatus consultum ultimum*) to confer quasi-dictatorial authority on the consuls — a proceeding somewhat similar to the declaration of martial law in modern times.

Enlarged Powers of the Assemblies. — In addition to the choice of a dictator and a master of horse, the friendly senate readily allowed the people to enlarge their formal powers in other directions. For a number of years, the plebeian assembly decided who were to be proconsuls in Spain. Of these, Publius Cornelius Scipio, son of the con-

sul of 218, and later called Africanus, was not a magistrate at the time of his election, and had been only an aedile, — the first instance of such an irregular promotion. From 207 on, another popular assembly (the *comitia tributa*) chose twenty-four military tribunes in place of sixteen — an arrangement which, in its permanent effect, introduced politics into military affairs and tended to demoralize the army.

In 212 the people, or rather seventeen districts chosen by lot from the thirty-five, elected one of the pontiffs chief pontiff (*pontifex maximus*), and may have done so on earlier occasions. Further, in 209 one of the directors (*curiones*) was in the same way chosen general director of the curies (*curio maximus*). For the first time the man selected was a plebeian — a fact which tends to prove that by this time, at least, the plebeians were full members of the curies and the assembly of curies (p. 35).

Finally, the people authorized the senate to decide the fate of the Campanians, who had rebelled and then been subdued, and sanctioned the farming of the revenue from the Campanian region (p. 131).

Minor Political Conflicts. — Amidst the general harmony, minor disagreements naturally occurred. For instance, Marcus Marcellus was elected consul in 215, but was compelled to resign, nominally because of a defective election — in reality because there would have been two plebeian consuls, if he had not withdrawn. Marcus Livius Salinator, who had been condemned on account of embezzlement, was reëlected to the consulship through the influence of the nobility. In 204 he was censor, and together with his colleague greatly diminished the popular regard for this office. Still, when these censors were prosecuted by a tribune, they were stoutly defended by the nobility, who well understood that the moral jurisdiction of the censors would perish, if they were not practically irresponsible in its exercise.

III. The Consequences of the Second Punic War.

Loss of Life and Wealth in the Second Punic War. — The economic losses during the second Punic war were incalculable. Numbers of prosperous regions were utterly ruined, and the capital that had been accumulated for generations was consumed or destroyed.

It was far more disastrous, however, that the population no longer sufficed to build up the country anew. The terrible loss of life is to some extent indicated by the census lists. The number of citizens able to bear arms was two hundred and seventy thousand in 234, and probably exceeded three hundred thousand in 219; but instead of increasing, it had fallen to two hundred and fourteen thousand in 204. This and the subsequent census numbers, moreover, include all assessed at from $88 to $242 — quite an important addition. In view of these facts, the estimate that three hundred thousand Italians lost their lives in the war does not seem exaggerated.

Decline of National Character. — The saddest and most important consequence of all was a perceptible decline in the character of the Roman people. Never did the Romans again show such patriotism and self-sacrifice, such firmness in critical times, such recognition of, and loyalty and obedience to, the best men, even when they were severe, harsh, and unpopular. Nor did the governing class, as represented by the senate, again display such energy and such military and administrative ability. The great losses, the camp life, the pillage of cities, and the thousand evil influences of a great war, had undermined the habits and corrupted the morals of the Romans and the other Italians.

The Nobility Becomes an Oligarchy. — The material and moral consequences of the war led to changes in the rela-

tions of the classes. Fabius had been, like Fabricius of old, a leader of his fellow citizens. Scipio was, as it were, a commander of clients, who looked upon him as a lord. To him they owed their glory in war, and from him they expected their future reward. Scipio's case was typical. The nobility had been exalted and consolidated by the war. It entered the war as an aristocracy, it issued from it an oligarchy. It was now almost a close corporation, and rarely was a new man elected to the higher offices until the later revolutionary times.

The Equestrian Order. — The financial straits of the state and the system of letting government contracts had rendered the services of the capitalists, the equestrian order, not only more important, but, at least for a time, indispensable. When a prominent member of the order had defrauded the state in an outrageous way, the senate did not venture to prosecute him and thereby offend the class to which he belonged. Fortunately the people and its leaders were yet independent enough to punish him. But the order became so powerful as to be able to prevent reforms of the financial administration and greatly to influence the foreign policy.

The Middle and Lower Classes. — The middle classes seem to have suffered the most from the war, both in numbers and in wealth. They had to pay the heavy temporary taxes (*tributa*) on their property, and did not, like the nobility, occupy any public land and enjoy the benefits of ownership without its burdens. They decreased in number, through losses in war and through impoverishment. As a result of the war and the subsequent policy of the state, they never regained their former prosperity and influence.

The lowest classes also suffered great losses, but they were recruited from the ranks of the impoverished population, and they gained a new position and influence on account

of their valuable services in the war and through the favor of the higher classes, who found in them the readiest political tools. The freedmen in particular attained new importance, being employed even in the legionary service. As early as 217 their sons were permitted to wear the toga with the purple border and an amulet case of leather. The freedmen and servile dependents were probably better situated than the poor but independent citizens whose civic pride had not been broken.

In general, things had now come to such a pass that it appeared doubtful whether the nobility would earnestly attempt to reform the constitution, which was fitted for a city, not for a state, or to reinvigorate and increase the middle classes. These were the two fundamental domestic problems on whose solution the fate of Rome depended.

The Latins. — One result of the war was to bring the Latins into greater prominence, and to degrade the other Italians. The Latins had been required to furnish proportionately more soldiers than the Roman citizens, but nevertheless served Rome with singular fidelity during the early years of the war. In 209, however, twelve of the Latin colonies refused to furnish the troops and money demanded of them, being no doubt influenced in part by the indignant rejection of any Latin representation in the Roman senate (p. 125). As a punishment they were later compelled to furnish more troops than formerly, and were assessed like Roman citizens for the purpose of levying the temporary tax (*tributum*). The other eighteen colonies had, however, offered to furnish even more troops and money than could be demanded according to compact. The Latins had unquestionably saved Rome by their loyalty, and they had suffered more than the Romans. In return for their services, they seem to have received money and grain, and they probably obtained a share of the lands confiscated

from the allies that had rebelled. But on account of conservatism or selfishness, the Romans did not grant the faithful colonies citizenship, and thus avail themselves of this excellent opportunity to strengthen the middle classes and to promote the Latinization of Italy.

Other Italian Allies. — The allies of central Italy had to a large extent escaped the ravages of the war. But Rome in some cases had had reason to be suspicious of their loyalty, and now continued to maintain in these regions the rigorous government which had been developed during the war.

Southern Italy had not only suffered the most from the actual devastation of the war, but was prevented from recovering, and was permanently ruined by the harsh policy of the Romans. Capua, the second city in Italy, lost its municipal constitution and became a village. Its lands, with a few exceptions, became Roman public domain, and were afterward let to small tenants on a temporary lease. In this way they formed an important source of public revenue, but the national prosperity suffered. The Bruttians became a sort of bondsmen to the Romans (*dediticii*). Others were punished in different ways. With the exception of comparatively few, these allies felt that their name was meaningless and that they were simply the subjects of Rome. In many cases a portion of the territory of an allied community was seized. A part of the confiscated land was colonized, but the larger part was retained as public domain and occupied by the rich.

Other Results of the War. — The immediate results of the war outside the Italian peninsula were: the establishment of two provinces in Spain, the incorporation of the kingdom of Syracuse into the province of Sicily, and the conversion of Carthage into a dependent mercantile city. Rome was now the queen of the western regions of the Mediterranean.

CHAPTER IV.

THE GOVERNMENT AND THE OLIGARCHY, 201–133 B.C.

I. The Measures of Scipio Africanus and the Opposition of Cato.

The Policy of Scipio. — At the end of the second Punic war the old heroic leaders had nearly all passed away; and Scipio Africanus, who had won the glory of ending the war, naturally became the leader in peace. At first he met with no opposition; he was elected censor, became first senator (*princeps senatus*), reached a second consulship, and was accused of reigning in the senate. But Scipio was a better general than statesman. He was too much influenced by family and factional politics, or by class interests, to pursue a definite line of national policy. In a general way he probably intended to enrich and restore the state by means of profitable foreign wars and by minor improvements in the financial administration, and to aid the people directly by limited assignments of land and by founding or strengthening various colonies.

The Colonies. — A short time after the Hannibalic war parcels of land were, through the influence of Scipio, given to such soldiers as had lost their homes during the war, and who had served their time in the army. About the same time reënforcements were sent to some of the most important colonies, in order to keep in check the restless Italian allies, or rather subjects. Scipio later secured the establishment of eight colonies of citizens in various parts of lower

Italy. His chief aim seems, however, to have been to insure the collection of duties, and only three hundred families were sent to each colony.

The most extensive and successful colonization at this time was carried out in the district between the Apennines and the Po. Gaius Laelius, a new man and an adherent of Scipio, was the one who first renewed the policy of Flaminius. Later both the Scipionic party and their opponents favored it. The Celts had finally been conquered, and the Boii lost half their territory. Six thousand families were sent to Placentia and to Cremona, and new Latin and Roman colonies were founded. The colonists received in some cases very liberal allotments of land.

The Porcian Laws. — In the course of the second century B.C. three Porcian laws were enacted, which superseded the last Valerian law on appeals. Publius Porcius Laeca, apparently a follower of Scipio, seems to have been the author of the first one, and Marcus Porcius Cato probably advocated it. The two last laws were passed before 134. It was now provided that within the mile limit Roman citizens should as a rule not be punished with death, but be allowed to go into exile; nor were they to suffer corporal punishment. The second law probably granted these privileges also to the Roman civilians living outside the mile limit, whether they dwelt in Italy or in the provinces; and the third prohibited execution or punishment by means of rods (*virgae*), even in the case of Roman citizens in the military service.

These laws greatly increased the practical value of Roman citizenship, and made the words, "I am a Roman citizen" (*civis Romanus sum*), a talisman that insured personal safety and inviolability wherever Roman law was respected. They also confirmed Roman pride and exclusiveness, and increased the contrast between the citizens and the allies and subjects.

The Party of Cato. — The party of which Flaminius had been the leader consisted of people below the nobility in the social scale and opposed to it in politics. It was the party of ideas and progress. On the other hand, the party which was formed early in the second century B.C., under the leadership of Cato, embraced the conservative element among the nobility, as well as supporters from the other classes; and it opposed, not the nobility as a class, but the Scipionic faction, or wing. It had in the main a negative policy — to check the degeneracy of the time by repressive measures, and thus restore the old Roman morality, simplicity, and thrift.

Cato and Provincial Affairs. — Cato, the new leader, had distinguished himself as governor of Sardinia by the honesty and economy of his administration, and by his severity against the Roman money lenders. It may have been through his influence and that of his protector, Lucius Valerius Flaccus, that the number of praetors was increased to six in 197, in order that two of them might have charge of the Spanish provinces. The law, enacted a number of years later, which was intended to give the Spanish governors a biennial term, had Cato's support, but was soon repealed. In his consulship in 195 Cato secured the passage of a law limiting the demands which Roman officials could make on the provincials. The following year he was governor in hither Spain (*Hispania citerior*), where he waged war with success, regulated the provincial affairs, and showed himself as severe, economical, and honest as ever. On his return he was feared on account of his rigor and courage, and highly respected because of his ability and integrity.

Censorship of Cato. — In spite of the greatest exertions of the Scipionic party, Cato and Flaccus were elected censors

in 184, and had an opportunity to carry out their policy, in so far as the censorial powers allowed. They expelled seven from the senate — two, at least, for just cause. They deprived Lucius Scipio of his public horse, in other words, excluded him from the equestrian centuries. They degraded another knight because he had neglected a sacrifice and was too fat. In assigning the citizens to districts, classes, and centuries, they were strict and severe toward all classes of society. They appear to have confined all freedmen to the city districts. They seem to have struck off the lists all the Latins who were not legally entitled to citizenship. Former censors had been negligent in this respect, Scipio being perhaps the first one who enrolled Latins indiscriminately. Cato and Flaccus may also have reduced and fixed the proportion of soldiers which the Latins should furnish. They assessed articles of luxury beyond a certain amount at an exceedingly high rate, and let the government contracts in the way most favorable to the state.

Impeachments of the Scipios. — For a number of years Cato and the opposition had been attacking, not the policy, but individual representatives, of the Scipionic party. They assailed at random persons of merit and ability, as well as incompetent and worthless individuals. When, about 187, the Scipionic party was weakened by internal dissensions, the opposition, probably through the influence of Cato, decided to prosecute Scipio Africanus himself and his brother Lucius. Africanus was impeached before the popular assembly. He disdained to play the rôle of a defendant, finally retired to his estate near Liternum, and was protected from further prosecution by Tiberius Sempronius Gracchus, a tribune of the people. He never returned to Rome, and died about 184. Lucius Scipio was condemned by a special commission (*quaestio extraordinaria*) to pay an indemnity for money alleged to have been embezzled in the war

with Antiochus the Great, and his property was confiscated.

The opposition had by its false charges gained a great political victory. Not only had Lucius Scipio been humiliated, but Africanus, the most illustrious and powerful Roman of his time, was removed from the helm of state and lost his kingly influence. If, on the other hand, Cato and his associates expected to restore the good old times by degrading the courts into instruments of politics, they were undeceived through the subsequent escape of notorious criminals like Marcus Popillius Laenas and Servius Sulpicius Galba.

II. The Senate and the Consolidation of the Oligarchy.

Leadership of the Senate. — After the retirement and death of Scipio Africanus, the senate remained without a real leader until the end of this period. The influence of Cato was due rather to his personal qualities than to party support, and, besides, it had already reached its zenith. Marcus Aemilius Lepidus, who became the first senator (*princeps senatus*) in 179 and held the position until 152, was a true representative, but not a leader, of senatorial mediocrity. His successor, Publius Cornelius Scipio Nasica Corculum, was also a man of moderate ability, but somewhat independent. Publius Cornelius Scipio Aemilianus distinguished himself in war, but not in politics, and was never a party leader. The senate, accordingly, governed the state in its collective capacity, as a corporation.

Membership of the Senate. — The men outside the nobility who had been appointed senators in 216 (p. 125) probably passed away in the early part of the second century B.C. and left the senate more aristocratic than ever. The number of

the offices of state had been but slightly increased; still, the ex-magistrates were now sufficiently numerous to fill the vacancies in the senate. To be sure, only those who had held a curule office were entitled to be appointed senators; but in the next place former plebeian aediles, tribunes, and ex-quaestors were chosen even earlier than 216, and this remained the practice. The consequence was that the senate practically filled its own vacancies, as it controlled the elections completely whenever it was tolerably harmonious. The senate had thus become a close corporation, consisting, with comparatively few exceptions, of members of the nobility.

Senatorial Privileges. — The senators began to be actuated above all by class spirit, and it was in a certain sense fitting that they should distinguish themselves in a conspicuous way from the other classes. In 194 Africanus secured special places for them in the theatre (at the *ludi scaenici*). This was plain and very unpopular evidence of the rule of the oligarchy. Further, they began during the latter part of this period to wear two broad vertical purple stripes (*latus clavus*) on their tunics (*tunicae laticlaviae*), and in this way proclaimed themselves the governing class.

Functions of the Senate. — With the growth of the state the work of the senate increased in amount, variety, and importance. The senatorial order of business was necessarily developed. The senate was no longer simply an advisory body: it could practically take the initiative in any matter, partly because it was able to employ the tribunes as a check on the higher magistrates (*magistratus maiores*) and in part because the eminent senators in particular had the right to make entirely independent motions. Such means were now turned to better account, as the general political tendency was in favor of senatorial government.

Besides its control of the elections, of legislation, and the administration of domestic affairs, the senate superintended the Latins and other allies and the Roman subjects, supervised the provincial governors, and managed foreign affairs. In view of the extent of Roman dominion during this period, it now had in practice far greater powers, and responsibilities, and opportunities than ever before in the history of Rome; but it was also exposed to greater temptations and worse influences than before.

Degeneracy of the Senate. — The senate soon fell below the high standard of patriotism and morality maintained during the Hannibalic war, and degenerated with fearful rapidity. There were different causes. To the senate the national religion had become largely a matter of form and an instrument of politics. In the very nature of senatorial, or corporate government there was a want of individual responsibility, dangerous at all times; but it was fraught with the utmost danger when the dominion and the treasures of the Mediterranean world were in the hands of a degenerating oligarchy. As governors in the provinces, moreover, the individual nobles were practically kings, and it is difficult to be at the same time a republican and a king. Service in the provinces contributed very largely to make the small governing class haughty, arrogant, and corrupt. Venality in one form or another became so common that the refusal of a bribe was something unusual, and surprise was excited when Scipio Aemilianus threw gifts from the king of Syria into the military chest. Dishonesty had indeed appeared in the foreign policy of Rome before this time under the guise of patriotism, but now it became almost a principle of Roman diplomacy, and served selfish ends. Selfishness — the old sin of the nobility — superseded patriotism. The public welfare was sacrificed to class interests, but these were in turn disregarded for the sake of a clique, or of a

family, or of personal gain and advancement. The new method of winning popularity and distinction by prosecuting some eminent nobleman had the sanction of Cato's illustrious example; but it promoted the formation of cliques and factions, and, without benefiting the state, it gave rise to numerous personal feuds within the nobility.

Senatorial Government. — The senatorial government corresponded to the character of the senators. In general, the senate was responsible for the attempts to degrade the popular assemblies by the admission of freedmen to all the districts (*tribus*). It, as well as the candidates, was responsible for the practice of corrupting the people by the celebration of games and festivals, and finally by direct bribery. It was the senate, as the organ of the nobility, which confined the choice of the highest magistrates to the narrow circle of the nobility, and, with very few exceptions, excluded all other Roman citizens, however able and patriotic. The senate was, in a large measure, chargeable with the decline of the national prosperity and of Italian agriculture, because of its selfish management of the public domain and finances. It was, in the main, accountable for the general change for the worse, for the drifting toward a political catastrophe, and, outside of Italy, for the misgovernment of the provinces and the miserable conduct of wars.

Consolidation of the Oligarchy. — The nepotism of Scipio Africanus and others made it seem desirable to prevent by law such a distinguished official career as his had been, and such a dominant influence. The oligarchy was thus enabled to carry a number of laws consolidating its power and equalizing the political opportunities of the individual nobles.

Senatorial Safeguards against the Magistrates. — The Villian plebiscite (*lex Villia annalis*) of 180 directly or indirectly established definite requirements as to the proper age for,

the order of, and the intervals between, the regular patrician offices (*certus ordo magistratuum*). A candidate might normally fill the quaestorship in his twenty-eighth year, the curule aedileship in his thirty-seventh, the praetorship in his fortieth, and the consulship in his forty-third year. The curule aedileship, like the plebeian magistracies, was not legally required, and might be omitted.

Several instances of reëlection to the consulship are to be found after the passage of the Villian law, and Marcus Claudius Marcellus reached even a third consulship. Such a distinction also was against the oligarchic principle of equality, and might lead to the preëminence of a few individuals. Accordingly, a law passed about 151 prohibited reëlections to the consulate.

Effect of the Restrictions on Eligibility to Office. — The Villian law, and to some extent other laws as well, by restricting in different ways the eligibility of Roman citizens to office, secured to the state the advantages of having in the highest patrician offices men who had gained experience in the lower offices and were of mature age. They to a great degree prevented the predominance of a few individuals or families, and apparently forestalled the rise of a tyrant. But they also made it very difficult for the ablest and noblest men of the state, such as Lucius Aemilius Paulus, to exert any lasting influence, or to carry out any extensive scheme of reform. They exalted mediocrity, brought ordinary and incompetent men into office, and thus increased the abuses and misgovernment which led to the fall of the republic. In brief, they indirectly hastened what they were intended to prevent — the establishment of a monarchy.

Senatorial Safeguards against the Assemblies. — The oligarchy considered it necessary to protect itself against the assemblies of the people as well as against the magistrates.

For this purpose in part it admitted some freedmen to the country districts (*tribus*) and also some of the poor people. They were more dependent on, hence more easily controlled by, the nobility, and could be employed to work against the middle classes in the assemblies.

Another safeguard was intended to check tribunician opposition and indirectly to control the acts of the plebeian assembly. The Aelian and Fufian laws, passed about 155, enacted that electoral assemblies of the whole people (*comitia*) should, on being announced, take precedence of all legislative assemblies; and they regulated the ancient right of reporting unfavorable auspices, especially lightning (*obnuntiatio*). All the patrician magistrates and the tribunes seem to have obtained the right to report unfavorable omens to a consul while he was presiding over an assembly; and any other tribune, probably also a consul or praetor, could make a similar report to a presiding tribune. Augurs, too, possessed this right. The usual consequence of such a report was that the assembly was dismissed for that day, and any action taken by it was defective and was therefore canceled. Other official actions might be postponed or practically annulled in the same way. A part of the state religion was thus by law proclaimed to be a mere instrument of politics; and the magistrates were known to be so ready to lie, that the statement of a magistrate that he would look for lightning (*servare de caelo*) on a certain day was sufficient, and a meeting of an assembly announced for that day was postponed.

By these measures the oligarchy seemed to have established itself in an unassailable position; but the nobles forgot that the lowest classes might become the tools of a revolutionary opposition, and that mere forms, political frauds in religious guise, would never stem the tide of any earnest popular movement.

III. The Magistracy and the Administration.

Consuls and Praetors. — What the senate as the chief organ of the oligarchy had gained, the magistrates in general had lost. The consuls and praetors suffered more and more both in personal independence and in prestige at home, partly because of the common degeneracy and the restrictive laws already mentioned, and in part because they were instructed and controlled in a more detailed way by the senate. It was, however, not so much the official powers that had changed, as the men and the times. Where canvassing for office and cliques flourish as they now did in Rome, the magistrates are rather cautious in maintaining the authority and independence of their office by a courageous, stern, and impartial discharge of their duties. Men like Cato and Paulus were few. Some consuls did display independence, but it was in satisfying their vanity or their greed. The consuls suffered in prestige, also, through conflicts with plebeian tribunes, who on two occasions imprisoned them.

On the other hand, as executives and as representatives of the senate, the consuls and praetors enjoyed in some respects greater dignity and authority than before. From the senate, the consuls might in emergencies receive quasi-dictatorial powers, and they could deal more freely than ever with the Latins and other Italian allies. Moreover, they, and the praetors as well, during their official term, or later, governed Roman provinces with an almost absolute sway.

From the year 153 on, the consuls, praetors, and all the aediles entered their respective offices on January 1, the quaestors on December 5, and the plebeian tribunes as before on December 10.

The Censors. — The censorship now became the crowning honor of a public career. This was largely due to the inde-

pendent and practically irresponsible powers of the censors in the selection of senators and knights, and in the enrollment and assessment of the citizens, particularly the freedmen and the poor. They had charge of the numerous and important government contracts respecting the collection of taxes, the erection and repair of buildings, the working of mines, and so forth. They had a longer term, and good opportunities for initiating legislative reforms, of which, however, even Cato made little use. Toward the end of this period notoriously unworthy censors were chosen, and this office, too, shared the general decline.

Competition for Office. — Perhaps nothing so clearly indicates the degeneracy of the time as the hunting after distinctions and honors of all kinds. The honor of a triumph was in the greatest demand, and matters went so far that the consuls of 181 were granted a triumph without having waged war at all. It was then decided that a triumph should not be accorded unless at least five thousand of the enemy had fallen in a pitched battle. But the result was not satisfactory, as evidence was manufactured, or a triumph was celebrated on the Alban Mount, without the consent of the senate. Statues and monuments became so common that it was a distinction for an eminent man to have none. The custom of deriving or assuming a permanent surname from victories, like Messalla and Africanus, now spread.

The struggle for the highest offices became intense. Means for winning the necessary popularity were close at hand. The urban praetor had charge of the games in honor of Apollo, and the aediles in particular of several festivals. The future candidates for the consulship vied with one another in spending large sums on the games; a gladiatorial show might cost $40,000 (HS. 720,000). The price was high, but it excluded those who were not wealthy from a political career, and it proved to the satisfaction of the

populace the fitness of open-handed candidates. Moreover, with a view to obtaining the censorship, the consuls might conciliate the soldiers by a lavish distribution of the spoils of war, which used to be the property of the state. In place of expending one's own money, it was rather convenient to levy on the Latins, Italians, and provincials, as Tiberius Sempronius Gracchus did in his aedileship. Such assessments were, however, then prohibited by a decree of the senate.

Laws on Canvassing for Office. — After a time these means of corrupting the people were considered inadequate, and candidates began to resort to commonplace, direct bribery. Laws were passed to prevent such excessive competition. The Cornelio-Baebian law threatened any one who employed illegal means in his canvass, especially bribery, with exclusion from office for ten years. The Cornelio-Fulvian law punished bribery during a canvass with exile.

Methods of Reimbursement. — The Roman nobility was based on large and permanent possessions, and the Roman politicians were too thrifty a race to spend so much money on the populace without reimbursing themselves. They refilled their chests by the pernicious system of farming public revenues, by spoils and robbery in war, and especially by extortion in the provinces.

They enriched themselves also by their management of the public domain. The low charges for using the public pastures were indeed collected, and as late as 193 stock-raisers were punished for violating the Licinian provision as to the number of cattle allowable (p. 66). But the rent, or tax, due on public land in Italy occupied by private individuals was in the great majority of cases not paid, and the Licinian maximum of three hundred and eleven acres was probably exceeded with impunity. Of the more recent

territorial acquisitions, the state, about 166, reclaimed the public domain in Campania, and derived a considerable revenue from leasing it. The former occupants (*aratores*) were indemnified.

The nobles generally made money also out of the government contracts, which were often only nominally in the hands of the equestrian class, and were no longer let on the terms most favorable to the state. But as a rule they reaped their golden harvests by exacting money in innumerable ways from the provincials.

A New Criminal Court. — In important cases, especially those of a political nature, the popular assemblies formed very unsatisfactory courts of last resort, and were at times superseded. An important investigation or trial (*quaestio extraordinaria*) was occasionally intrusted to a consul or praetor, who then passed sentence on persons found guilty, without allowing appeal. In some cases the senate also directed provincials to accuse an official before a commission of senators.

When the praetor Servius Sulpicius Galba had induced the Lusitanians to surrender by promising them lands, and then had slaughtered or sold them into slavery, Cato and others attempted to establish by law a special commission to try him, but they were foiled by his wit and oratory, his money and friends. Such a result in so notorious a case led at last to the conviction that the old criminal procedure before a popular assembly was insufficient to check the greed and cruelty of provincial governors. Accordingly, in 149, the plebeian tribune Lucius Calpurnius Piso carried a law (*lex Calpurnia de pecuniis repetundis*) establishing a special court (*quaestio repetundarum*) for the trial of cases of extortion. The second city praetor (*praetor peregrinus*) was the president of this court, and selected the annual panel of jurors, from which a jury was chosen for each case. The

court was modeled on the civil procedure, and no appeal was allowed. The jurors were during this period senators, who either had been guilty of extortion or hoped one day to be, and hence were not inclined to deal harshly with a fellow sinner. As a result the provincial governors, like many a modern colonial governor, continued to plunder the provincials, and did so with impunity, if they were somewhat moderate.

Formally, the Calpurnian law was of the greatest importance, and led to a new development of the criminal procedure and the institution of a number of similar criminal courts (*quaestiones perpetuae*), which superseded the popular jurisdiction. Moreover, the question as to what class or classes should furnish the jurors in these courts became one of the greatest political issues during the last epoch of the republic.

CHAPTER V.

THE PEOPLE AND THE ASSEMBLIES.

I. The Extension of Citizenship; the Decline in Population and its Causes.

Extension of Citizenship. — Since 241 the Roman republic had rapidly extended its dominion, until its former territory had sunk into comparative insignificance and the citizens formed but a small nucleus in a state consisting mainly of allies and subjects. It was high time to enlarge the home territory and to increase the number of citizens, on whom, after all, the safety and existence of the imperial state depended. The inhabitants of the Latin colonies were in the main the descendants of Roman citizens; they spoke the same language, had similar institutions, and had been singularly loyal to Rome. Their fate, past, present, and future, was inextricably bound up with that of the Roman state. What could be wiser or more natural than to confer citizenship on them? New Latin colonies might then be established in the provinces, as Carteia was in Spain in 171, and a beginning be made towards Latinizing the provincials. But such ideas were spurned by the selfish Roman people. Roman citizenship had become too profitable and too great a distinction to be shared with the Latins. Accordingly, those Latins alone who belonged to the older Latin towns, or who fulfilled certain conditions (pp. 94, 97), or who were allowed to join Roman colonies, now became citizens, — in brief, a very small minority.

Political Rights of the Freedmen. — The citizens without political rights, on the contrary, obtained full citizenship, although some of them had joined Hannibal and had afterward been severely punished.

It is still more strange that, while the best classes, the Latins, were not granted Roman citizenship, the lowest classes, the slaves, consisting of Spaniards, Gauls, Ligurians, Sardinians, and people of other nationalities, in almost every stage of moral degradation and barbarism were duly emancipated, and thereby admitted to citizenship, in large numbers. The admission depended, therefore, not on any official or legislative act, but on the pleasure and profit of the slave owners.

The freedmen (*libertini*) enjoyed only a limited right of suffrage, were not eligible to the magistracies or to the senate, and down to 18 B.C. they did not in law possess the right of intermarriage with freeborn citizens (*ingenui*). But they were often more profitable to their masters (*patroni*) than slaves, were of great importance in the private life of the highest classes, and served already as tools for managing the popular assemblies. In return for their restricted civil rights they might be required to serve in the navy along with some of the allies and the freeborn citizens assessed at from $88 to $33 (4000 to 1500 *asses*).

Number of Citizens. — The admission of freedmen did not suffice to maintain even the number of Roman citizens. At the census of 204 the number of citizens capable of bearing arms was stated to be two hundred and fourteen thousand. By 164 it had risen to three hundred and thirty-seven thousand. Then followed an almost uninterrupted decrease to three hundred and seventeen thousand in 136. This increase until the year 164, in spite of the great wars, was perhaps largely due to the assignments of public land and the founding of sixteen Roman colonies, whereby many

poor citizens obtained half an acre of land or more, and were included in the number reported at each census. It was probably caused in part by the granting of full citizenship to some citizens without suffrage.

It is a noteworthy coincidence that the full establishment of the Roman dominion in the West may be dated from the battle of Pydna in 168, and the decline of the Roman population in times of comparative peace dates from 164. The significance of the number of citizens published about every five years could not escape the attention of the leading men of the day. Italy was apparently weaker in numbers in 150 than it had been in 250; and the Roman nation was diminishing. The independent middle classes were disappearing, and the population was resolving itself into a class of masters and a class of dependents and slaves.

Causes of Decline in Population. — Nor were causes of the decline far to seek. The Roman nobles and capitalists had in a large measure continued the work of destruction which the Carthaginians had begun. About the time of the first Punic war the rich Romans began to buy up the small farms and to convert them into large estates. As heritable leases were not recognized in the management of private land in Italy, and leases for short periods were exceptional, no distinct class of tenants was formed, and the large estates were at best managed by overseers, and tilled by slaves.

A greater danger, however, was threatening the Italian farmers than the old competition of the rich. When Sicily had become a province and peace was established, grain cultivated there by slaves could be produced and sent to Rome cheaper than it could be grown on the Italian peninsula. It might, then, for political reasons have been wise to impose an import duty on transmarine grain, and thus save the Italian farmers, who were the soldiers

of this military state. But the opposite course was followed, and as a rule the provinces were allowed to export grain only to Italy. Sicily furnished the Roman armies with grain, becoming the granary of the state and the nurse of the Roman multitude. Nor was this enough. In the years 203–200 wheat was sold, apparently at the suggestion of Scipio, on public account to the citizens of Rome at from eleven to twenty-two cents per bushel (6 *modii* at 12–24 *asses*). Afterward two hundred and forty thousand bushels were distributed at eleven cents a bushel. Such distributions of grain were perhaps not infrequent and formed precedents for future agitators. In this way the Italian farmers lost in some degree their best market for grain, and the price was depressed. The average price of wheat at Rome was, however, perhaps eighty-eight cents per bushel (a *modius* cost one *denarius*).

Extension of Ranches. — Even the large landowners could not meet the provincial competition, and began to turn their attention more and more to the production of oil, wine, and wool, and to stock-raising. Ranches could be extended at pleasure, required less supervision, and could be managed better by slaves. They might also conveniently include public land that was left for occupation, and hence sometimes superseded cultivated farms even at an economic loss. In Apulia, Lucania, and the Bruttian country, stock-raising preponderated over farming as early as the time of Cato. The slaves, who were the herdsmen, were to a large extent virtual masters in these regions. Even in Latium it sometimes happened that towns like Praeneste were in danger of being captured by runaway slaves.

While the landowners were thus able to maintain themselves and to prosper, the farmers of the middle and lower classes, who had less capital and were losing their old moral tone and their habits of thrift, were ruined in many

districts beyond recovery, and their farms were incorporated with the large estates. The governing class saw that the state, of which agriculture was altogether the mainstay, was being ruined, but they sacrificed the welfare of the nation for the sake of the rabble in the capital and of their own political and pecuniary interests. After 180–177 nothing was done to stay the downward progress of Italian agriculture, except the founding of one Roman colony in 157. Nobody was responsible in this government by a senatorial corporation, and the catastrophe was fast approaching.

II. The Decline of Religion and Morals; the Growth of the Equestrian Class.

Decline of the National Religion. — The Roman national religion had never contained any very prominent moral elements; still, it had imparted a belief in a just government of the world and, above all, in a divine establishment of the Roman state and in a divine sanction of the public acts. Now it was losing its substance of simple faith, the public worship became a matter of minute and tedious forms, involving ever greater expense, and the moral elements, with the restraints which they imposed, were disappearing. Unbelief spread fast among the highest classes, who saw in religion more and more only a means of imposing on the multitude. Among the lower classes the old national faith was giving way to all kinds of superstition. The Oriental worship of Cybele had been introduced in 204. Later the secret worship of Bacchus was favorably received, spread all over Italy, and led to the vilest crimes and practices. Just as the government had shown criminal negligence in allowing the orgies to spread unhindered, so it displayed reckless severity and incompetence in the hasty prosecutions, which resulted in the summary condemnation of thousands of persons and the execution of most of them.

Decline of Morals. — Not only was the moral influence of religion disappearing, but the ties and restraints of family life were relaxing, military discipline was losing its rigor, and the civil government was becoming more remiss. Everywhere authority was waning; obedience, self-control, and morals were declining. Immorality increased at home and abroad. In 171 it became necessary to provide for the children of Roman soldiers by Spanish women, and the Latin colony of Carteia (*colonia Latina libertinorum*) was founded, the first one outside of Italy. The old military spirit no longer prevailed. The rich did not wish to serve in the cavalry, or even in the equestrian centuries. Cases of cowardice, larceny, and insubordination multiplied in the army. Such was the result of converting war into a traffic in plunder.

Sumptuary Laws. — Luxury began to prevail in dress, at table, and in the houses. In the course of the second century several sumptuary laws were passed: one (*lex Orchia*) limited the number of private guests, another (*lex Fannia cibaria*) fixed a maximum of expenditure for meals on different occasions, and a third (*lex Didia cibaria*) extended the application of the second law to all Italy. Some censors, also, especially Cato, punished, or attempted to punish, the luxurious. Yet such laws and ordinances could not be enforced in any satisfactory way, and caused but a ripple on the onward sweep of degeneracy.

The Romans had in earlier times looked upon citizenship as a claim to pecuniary or material gain; now the inordinate love of pleasure intensified their greed, and the end — riches — justified the means — robbing or defrauding the government, plundering the subjects, and deceiving with shameless perfidy the enemies of Rome. Even marriages and friendships had to yield pecuniary profits. Nobody was expected to do anything for nothing, and selfishness

began to reign supreme in the affairs of family, party, and nation.

Growth of the Equestrian Class. — Amidst such a struggle for riches and such a desire for pleasure, the equestrian class could not but become prominent. Its leaders were the great capitalists who lived in Rome, or made the city the centre of their financial operations, and secured the important government contracts. The class was organized into associations (*societates*), and was usually harmonious and disinclined to excessive competition. It had extensive business connections and branches throughout the Roman dominions, and it knew how to make the senate and the magistrates serve its purposes by means of threats, gifts, and the sharing of profits. The capitalists induced the nobles to become silent partners in commercial and financial enterprises, and in undertaking government contracts. In this way they could usually protect themselves against the comparatively few censors and provincial governors who opposed them on account of their insatiable greed. They were also able in time to bring about the repeal of unfavorable decrees of the senate, — for example, the one providing that the state should not lease the Macedonian mines.

Its Influence on the Financial Policy. — What was most important of all, the equestrian order prevented the reform of the financial system of the state. It was a great convenience for the government not to have to deal with all the details of the collection of taxes and tithes, and of the numerous other affairs and transactions now attended to by contract; it was, further, an advantage to have the support of Roman capital: but the system involved great losses to the state, unscrupulous and brutal treatment of the provincials, and, in the course of time, great corruption and consequent political disaster.

Its Influence on the Foreign Policy. — This class wielded a great influence on the foreign policy of Rome, too, as is indicated by the fact that the barbarous destruction of Corinth and of Carthage was due chiefly to the efforts of the capitalists to get rid of two commercial rivals. Enjoying the financial and political support of the state, the Roman capitalists outstripped all competitors. They began to monopolize the business of banking, and developed Roman commerce throughout the empire. Roman superiority in business and wealth was as marked as in war and politics.

Privileges of the Equestrian Class. — Although the equestrian class was not exclusive like the nobility and did not form a close corporation, it desired to have privileges and distinctions. It became more and more common for all those who were not nobles, but possessed the equestrian census ($22,000) and served in the equestrian centuries, to use the silver trappings (*phalerae*) formerly belonging to the nobility, to wear tunics with narrow purple stripes (*tunicae angusticlaviae*), and later gold rings. Probably the equestrian centuries about this time (in 145) obtained special seats in the theatre, the fourteen rows next to the senatorial seats.

III. The Assemblies.

The Enrollment of the Poor. — Neither the general organization nor the respective functions of the assemblies were much changed at this time. The nobility considered it sufficient to apply the rules of auspicial obstruction (p. 141) to the plebeian assembly, and to alter somewhat the enrollment of the poor (*proletarii*) and the freedmen.

The freeborn citizens assessed at from $88 to $550 (4000 to 25,000 *asses*), and possibly those assessed as low as $33 (1500 *asses*), belonged to the fifth Servian class. This

arrangement might seem reasonable, as they were liable to military or naval service, and the temporary tax (*tributum*) was not levied after 167. A more important question referred to their enrollment in the districts (*tribus*). It seems probable that the censors of 179 assigned some of the poor people to the country districts, taking into consideration their parentage, legal status, and occupation (*genus, causa, quaestus*). The succeeding censors may have adopted similar measures for relieving the crowded urban districts, but nothing further is known for this epoch (201–133).

Enrollment of the Freedmen. — Gaius Flaminius had relegated all freedmen and their sons to the urban districts (p. 118). About 189 a plebiscite directed that the sons should be enrolled like other citizens; that is, while before they had technically been freedmen (*libertini*), they were now in this respect to be treated as freeborn citizens (*ingenui*). Some time afterward the freedmen who had five-year-old sons or were assessed at $1650 or more, were enrolled in the country districts; but the censors of 169 confined all excepting perhaps those who had five-year-old sons to one urban district. This great restriction was not permanent. The method of enrollment varied at different times, because the nobility opposed, and the middle classes favored, restrictions on the suffrage of the freedmen.

The Powers of the Assemblies. — The nobility tried also in other ways to make the assemblies friendly and subservient. In spite of the fact that the Latins were in general excluded from citizenship, the assemblies remained too large and unwieldy to be convened very often, if those present should in any adequate way represent all those entitled to vote. It might have been sufficient to convene them only on important occasions, — to elect magistrates,

to declare great wars, to vote on constitutional amendments, and perhaps to decide great state trials. But the policy of the time was quite different. To be sure, neither the governing class in general, nor the party of Cato, desired to enlarge the powers of the assemblies, but through conservatism, or mismanagement, or a desire for popularity, the nobility readily allowed the plebeian tribunes to bring forward bills, not only on constitutional questions, but concerning nearly all branches of the administration. Thus the tribunes became the chief legislators and the plebeian the chief legislative assembly. Another result was that the better class of citizens, who seem to have attended the meetings somewhat regularly at the beginning of the second century, now began to stay away on account of the insignificance or technical character of the bills and the comparative frequency of the meetings. The city populace therefore predominated more and more.

In one direction the powers of the people were diminished: the popular jurisdiction in cases of extortion was superseded by a special court (pp. 145–146).

The Subserviency of the Assemblies. — While the formal powers of the assemblies remained in a large measure the same, and were perhaps more frequently exercised than before, their independence and actual importance continued to decrease. The assembly of centuries, to be sure, refused at first to pass the declaration of war (*lex de bello indicendo*) at the beginning of the second Macedonian war, but this is the only instance on record. It was probably during the third period that the people ceased to attend those meetings of the curiate assembly in which the curiate law (*lex curiata*, p. 11) was passed, and began, as a matter of form, to be represented by thirty lictors, perhaps those of the curies (*lictores curiatii*, p. 9).

The assemblies were regularly subservient to the nobility.

This was due not only to the influence of the freedmen and other dependent poor in the city, and to the systematic corruption of the people by means of festivals and of the spoils in war, and finally by direct bribery; it was due above all to the enrichment of the highest classes and the constant impoverishment of the common people, in consequence of which the middle classes also sank to the position of clients of the rich and lost their political independence.

Introduction of the Secret Ballot. — In order to restore to such dependents some measure of freedom, the tribune Quintus Gabinius in 139 carried a plebiscite (*lex Gabinia tabellaria*), establishing the secret ballot at elections in place of voting *viva voce*. The Cassian plebiscite, passed in 137, with the aid of Scipio Aemilianus, established the secret ballot for criminal cases tried before the people, except those of high treason (*perduellio*). The Caelian plebiscite of 107 introduced it also for cases of treason; and the Papirian plebiscite of 131, for the enactment or rejection of laws. But the secret ballot was never perfected and enforced to such an extent as to become effectual and politically important. Bribery and intimidation continued to flourish.

FOURTH PERIOD.

THE OVERTHROW OF THE REPUBLIC AND THE ESTABLISHMENT OF A NEW MONARCHY, 133–44 B.C.

CHAPTER I.

THE REVOLUTION OF THE GRACCHI AND THE REACTION, 133–111 B.C.

I. The Economic Reform of Tiberius Gracchus.

The Problem of Economic Reform. — The political, economic, and moral decline of Rome was so evident that intelligent men could not but ask the question whether this state of things was capable of improvement. The chief danger lay in the impoverishment and decrease of the middle classes, who were absolutely essential, both as a safeguard against the increasing rabble and the numerous slaves and as the mainstay of the imperial dominion of Rome. Since the Romans were too selfish to concede citizenship to the Latins, the middle classes could, according to Roman precedents, be reënforced in the best and simplest way by assignments of public land to the poor and by the founding of colonies. But, with the exception of some lands that were leased, the desirable public domain in Italy had already been distributed or occupied. To be sure, the poor citizens might be settled in the provinces, but this would not restore Italian agriculture; and, since Italy was to remain the sover-

eign country, the barrier between it and the provinces was not to be broken down. Accordingly the solution of the problem came to depend practically on the question whether the state ought to reclaim the public domain in Italy, which was now occupied by private individuals, and to distribute it among the poor citizens.

Advocates of Economic Reform. — The nobility in general was as much opposed to resumption now as in former times. But a few of the leading men of the state were inclined to favor it. Of these the chief was Scipio Aemilianus, the greatest general and the most illustrious Roman of his time. He had endeavored to improve the administration of justice and aided Lucius Cassius in carrying his law on the ballot; but he never introduced any great political measure of his own, perhaps because he considered the remedy which was necessary to be worse than the existing evils. His friend, Gaius Laelius, had as praetor in 145 prepared an agrarian law, providing for the resumption and distribution of the Italian public lands heretofore occupied by private persons; but he met with resistance in the senate, probably came to realize the immense difficulties in the way of his project, and dropped it. Afterward the Scipionic circle held a middle position between the rest of the nobles and the reformers.

Appius Claudius Pulcher, censor in 136 and now first senator (*princeps senatus*), favored such an agrarian law, and censured the Scipionic circle for abandoning it. Publius Crassus Mucianus, the chief pontiff (*pontifex maximus*), and his brother Publius Mucius Scaevola, the consul elect for 133, who were eminent both as men and jurists, also favored reform. So, among others, did Quintus Caecilius Metellus, the conqueror of Macedonia and Achaia.

Tiberius Sempronius Gracchus. — While these eminent men hesitated, or were not willing, to step into the breach, a

young man, Tiberius Sempronius Gracchus, came forward as the champion of reform. Tiberius and his younger brother Gaius were the grandsons of Africanus the elder. Both had received an excellent education, and were men of refinement and culture. They were the brothers-in-law and cousins of Aemilianus, and belonged in their political views to the Scipionic circle. Tiberius was the son-in-law of Appius Claudius, and his brother Gaius later married the daughter of Mucianus. Tiberius was a man of the noblest character and the best motives. But he was an idealist, lacked political insight, and had scarcely any political experience. In his party attitude he may have been somewhat influenced by resentment and indignation. In 137 he had guaranteed to the Numantines that a treaty which saved the Roman army would be accepted by the Romans; but it was rejected. The Roman commander-in-chief was surrendered to the enemy, and Gracchus, who should have suffered the same fate, escaped through the aid of Scipio, joined to his own popularity.

Agrarian Law of Tiberius Gracchus. — Tiberius became plebeian tribune in December, 134, and immediately proposed an agrarian law, which was in part a renewal of the Licinio-Sextian law. Those now occupying public lands were, according to its provisions, allowed to reserve about three hundred and eleven acres each, and about one hundred and fifty-six acres for one son, or three hundred and eleven acres for two. They were to become the owners of the land reserved and to pay no rent. Moreover, they were to be indemnified for any improvements made on the lands which they surrendered. The public lands, when resumed by the state, were to be distributed among individual poor citizens in parcels not to exceed about nineteen acres each. The parcels were heritable, but could not be alienated, and were to be subject to a moderate rent. A commission of three

new magistrates, who were to be elected annually by the plebeian assembly, was to have charge of the distribution.

Character of the Agrarian Law. — The bill of Gracchus was based on the Licinian provision respecting a maximum of three hundred and eleven acres, which was still formally valid, but had long been a dead letter in practice. The last prosecutions against those who occupied public lands to an illegal extent dated, it seems, from 298. Nevertheless, possession, however prolonged, did not confer ownership in the case of public lands, and the state was undeniably the owner of the lands occupied, and could legally claim its property. On the other hand, these lands had been in heritable private possession for a long time, and had quite generally come to the present holders by way of purchase or for some valuable consideration. Resumption would therefore be practically an ejection of the great landholders from a part of their estates — the part occupied in violation of the Licinian law. This was unquestionably a hardship, but the highest classes, who were to be dispossessed, had now excellent opportunities to recoup themselves in the provinces, even without violation of the law. Besides, Gracchus was willing to indemnify them so far as possible. In this respect he followed perhaps the precedent established by the resumption of the Campanian territory (p. 145). Afterward he omitted the provision as to indemnification, because of the opposition he met. Still, it is not recorded that a single aristocratic family was impoverished by the measure.

The provision for a special commission, limited to no definite time in its labors, was a great improvement on the Licinian law, and was possibly derived from the agrarian law of Flaminius. The inalienable character of the parcels of land was a principle foreign to Roman institutions, and was an attempt to prevent the large landowners from buying the new farms.

Revolutionary Proceedings of Tiberius Gracchus. — Tiberius Gracchus imagined that the justice of his cause would insure success; but the senate, as the organ of the landowners, employed the old method of checking one tribune by means of another. Marcus Octavius, a colleague of Tiberius, vetoed the bill when it was about to be voted upon. Relying on his inviolability, Tiberius suspended the business of the state until his bill should be passed, and put his seal on the public treasury in the temple of Saturn. The government acquiesced. As Octavius persistently used his veto, Gracchus finally caused the plebeian assembly to decide by vote whether his colleague should be ousted from office. The decision was almost unanimous in the affirmative, and Gracchus had him removed from the tribunician bench (*subsellium*). The bill was then carried, and Tiberius, his younger brother Gaius, and Appius Claudius were elected commissioners. The very important power of deciding what land was public belonged, according to precedent, to the consuls or other magistrates, but was now by law conferred on this family commission. The nobles were exasperated, threats were uttered, and Quintus Pompeius announced publicly that he would impeach Tiberius at the expiration of his tribunate. In such a trial justice could not be expected, and the fate of Spurius Cassius might be looked for. Tiberius believed his life was in danger, and no longer appeared in public without an escort of from three to four thousand adherents. To maintain his popularity, he proposed that the Pergamene treasures, bequeathed to the Roman state, should be distributed among the new tenants, perhaps for procuring implements and stock. He claimed further that the people, not the senate, had the power to decide the fate of the new province, the kingdom of Pergamus.

Canvass for Reëlection, and Death of Tiberius Gracchus. — Tiberius probably saw that his only chance of safety lay in

reëlection to the tribunate. To this end he promised further reforms, and is said to have prepared various popular measures. He found it necessary to defend the removal of Octavius before the people, and declared the welfare and will of the people to be the supreme law. The aristocrats opposed his reëlection to the utmost. On the first day set for the election no choice resulted. On the second the greatest excitement prevailed, a tumult arose, and a mob of senators headed by Publius Scipio Nasica Serapion murdered Gracchus on the slope of the Capitol, with three hundred of his followers. The next night the bodies were thrown into the Tiber. In three secessions and during struggles lasting for more than two centuries, Rome had never seen such a day.

The senate declared that Tiberius Gracchus had wished to secure royal power and had justly been killed. It charged the consuls for 132, Publius Popillius Laenas and Publius Rupilius, with the duty of punishing his adherents. Many were banished, others were executed, while others fled. Nasica, on the other hand, was afterward made chief pontiff (*pontifex maximus*). The majority of the moderate men, like Scaevola and Laelius, either took part in, or approved, these proceedings.

Political Consequences. — Tiberius Gracchus was a patriotic man, but no politician. It was inevitable that he should bring his agrarian bill before the people without the sanction of the senate, and he followed in this the precedent of the agrarian law of Flaminius and several subsequent enactments. But it was not necessary to carry the measure within one year. If it were, he should have secured the election of a harmonious tribunician college. Though he had failed to do this, he lost his self-control because of the opposition of a colleague, and was ready to override all constitutional forms. The removal of Octavius was a flagrant

violation of the constitution, and, together with the doctrine of the absolute sovereignty of the people, introduced the revolutionary epoch. The claim that the people had the right to decide the fate of a province was simply an application of the principle. But the sovereignty of assemblies of degenerate and corrupt men incapable of independent action, or even of honestly and intelligently supporting the right leaders and measures, meant the sovereignty of the demagogue and the establishment of tyranny. In so far the nobles were right, when they asserted that Gracchus wished to seize the crown. But it was they who, by their misgovernment, had made the revolution possible; it was they who, by their inflexible opposition, had transformed an honest and patriotic, but impatient and passionate, advocate of reform into a revolutionist; and it was they who, by infamous butchery and judicial persecution, confirmed the civil discord and made it permanent.

Economic Results. — Tiberius Gracchus had perished, but the senate did not venture to annul his agrarian law. Mucianus was elected to fill his place on the commission, but preferred to conduct an Asiatic campaign. Marcus Fulvius Flaccus and Gaius Papirius Carbo succeeded him and Claudius, who was dead. Together with Gaius Gracchus they prosecuted the work of defining, resuming, and distributing the public domain with zeal, energy, and even recklessness. The number of farms was increased everywhere. While the census of 136 gave the number of about three hundred and seventeen thousand citizens capable of bearing arms (p. 148), the number in 125 was about three hundred and ninety-five thousand, an increase of seventy-eight thousand, which was probably due to the work of the commission. In other words, about seventy-eight thousand poor citizens had within ten years received land enough to be assigned to the Servian classes and thus appear in the

sum total. There could be no better justification of the reform than this, nor could there be any greater charge against the ruling class than the conditions thus revealed, and the unwillingness to remedy them in a constitutional way.

When the commission had apparently distributed the lands occupied by Roman citizens and was proceeding to reclaim public lands in the possession of Latins and other allies, Scipio Aemilianus was entreated by the Latins to protect them, and in 129 secured the passage of a law remitting to the consuls the task of deciding what lands belonged to the state. This was practically a suspension of the work of distribution, which had probably gone as far as was beneficial. But it was possibly this interference which caused the death of Scipio, the noblest and most generous citizen of Rome.

II. The Revolution of Gaius Gracchus.

The Political Parties. — In the time of Aemilianus, the contrast between the two highest classes and the rest of the people resulted in the formation of two new parties, the aristocrats (*optimates, boni cives*) and the democrats (*populares*). The former favored and advocated a government by the best men, in reality by the noble and the rich. It was naturally conservative, as its members were already supreme in politics and in wealth. The democrats professed belief in a government by the people for the public welfare. They, too, were working for themselves, but relied on the people, not on the senate. As they did not possess, but desired, the control of the government and wealth for themselves or their adherents, they were in favor, not necessarily of progress, but of change. They were radicals. The party lines and programs had been rather indefinite, but recent events made them distinct and definite. The democrats endeavored chiefly to maintain the agrarian law, and individual leaders

introduced special measures with or without general party support. The tribunes and, for the time being, the commissioners were the natural democratic leaders. They belonged for the most part to the nobility, where, in fact, party distinctions were the strictest and most important.

Political Indifference of the Multitude. — The farmers usually did not participate to any great extent in legislation and elections. The multitude in the city were interested only in laws that would redound to their profit, and were otherwise indifferent. For this reason they could not be depended upon, and supported now a democrat, now an aristocrat, according to each one's oratorical talents, or bribes, or other inducements.

Moreover, the meetings in the streets (*contiones*), which had become a factor in politics, occupied a still lower plane than the assemblies (*concilium plebis, comitia*). In these, slaves and freedmen, beggars and street urchins, Egyptians, Syrians, and Romans shouted and applauded or hissed and howled at the orator, and not every politician had, like Aemilianus, the courage to face them and oppose a popular measure. The tribunes in particular made use of such meetings as a ready means of agitation.

Minor Democratic Successes. — Gaius Papirius Carbo, tribune in 131, succeeded in introducing voting by ballot in legislation; but, on account of the opposition of Aemilianus and others, he failed in his attempt to make plebeian tribunes reëligible without any restriction as to interval or number of terms. Within a few years, however, such a law was passed, with the limitation that reëlection should be permissible only in case there was not a sufficient number of qualified candidates. This restriction could be evaded.

Soon after the death of Aemilianus, another enactment was carried, providing that every knight (*eques equo pub-*

lico) was to surrender his public horse on becoming a senator. This regulation deprived the senators of the privilege of voting in the equestrian centuries, and tended to separate the nobles and the equestrian class.

Question of Granting Citizenship to the Allies. — The chief aim of the democratic party was to have the commission resume its work, now practically suspended; and it was probably in this connection that the democratic leaders began to think of conferring citizenship on the Italian allies as the easiest way of removing the former objections (p. 165). The aristocrats of the allied communities now turned to the Roman nobility for aid, while the poor citizens looked on the democrats as their natural allies, and began in large numbers to crowd into the city, where they could promote the democratic agitation, at least in the public meetings. To check this movement, the senate followed a Claudian law of 177, and in 126 induced the tribune Marcus Junius Pennus to propose that all freemen who were not citizens should be dismissed from Rome. In spite of the danger of provoking the Latins, and notwithstanding the opposition of the democrats, the measure was carried. As a counter move, the democratic consul of the next year, Marcus Flaccus, brought forward a bill granting citizenship to those allies who desired it, and to the others the right of appeal to the Roman people. He did not attempt to procure the approval of the senate, and soon abandoned the bill, as the people were too selfish to be willing to share their privileges and advantages with the allies.

Having been disappointed repeatedly, the allies were exasperated, and possibly agreed to rebel. The Latin colony Fregellae, the second city in Italy, made an attempt to revolt, but was betrayed and destroyed. The Roman colony Fabrateria was founded in that neighborhood the following year.

Gaius Sempronius Gracchus. — In the same year, 124, a new democratic leader appeared, in the person of Gaius Gracchus. He had been a member of the agrarian commission from the beginning, had advocated Carbo's proposal to make the tribunes reëligible (p. 166), and had opposed the law of Pennus. During the last two years he had been absent as a quaestor in Sardinia. He now returned without leave, and was accused of having incited the insurrection of Fregellae, but secured an acquittal. Then he threw down the gauntlet to the oligarchy, and was elected tribune for 123.

Gaius Gracchus was still a young man, but he had been deeply influenced by the tragic fate of his brother, and was developed and trained by the experiences of the subsequent nine years. He was one of the greatest orators and one of the few creative statesmen that Rome produced. He exercised a profound influence on the last epoch of the republic, and originated or formulated many of the fundamental principles on which the Roman empire was established.

He could not hope for the coöperation of the senate in carrying his measures of reform, much less in avenging his brother's death. In order to succeed, he would be obliged to make himself independent of the senate, that is, to revolutionize the government. For this reason he did not, like his brother, begin as an advocate of economic reform. He was primarily a revolutionist, to whom economic measures were means rather than ends. The recent law which conditionally allowed the reëlection of tribunes had removed one great obstacle in his way, and might become the cornerstone of a practically new government. He seemed to need only one thing more — popularity with the urban multitude, and of this he had already a fair share because of his relationship to Tiberius and others, his own past work, his lovable nature, and his eloquence.

Law respecting Appeal. — Two of the early measures of Gaius Gracchus formed connecting links between the past and the present, and were in part aimed against the opponents of his brother. He proposed that those who had been deprived of an office by a popular decree should thenceforth be incapable of holding any office. Perhaps he intended simply to declare the removal of Octavius to be constitutional. At all events, he abandoned this measure.

He brought forward a second bill, enacting that no Roman citizen was to be sentenced to loss of life or citizenship (*caput*) except by decree of the people, and that a magistrate who had violated this law should be punished with exile. He intended to forbid the institution of special commissions or of investigations merely by the decree of the senate (*cf.* p. 163), although appeal was not granted to those condemned. He wished also to prohibit the exercise of the powers conferred on the consuls by the declaration of martial law (*senatus consultum ultimum*), and perhaps to check the direct violations of the previous laws concerning appeal, of which the magistrates were still guilty. He would, moreover, in this way protect his own followers, in so far as it could now be done by law. The bill passed, and Publius Laenas, the surviving consul of 132, went into exile.

Law on the Distribution of Grain. — Gaius Gracchus needed above all to win lasting popularity. To this end he carried a law in regard to the distribution of grain. Members of the oligarchy had on several occasions distributed grain to the city multitude at less than the market price, the state treasury paying the difference (p. 150). Gracchus went farther, and proposed that every citizen who presented himself in Rome should be granted a monthly allowance of perhaps five pecks at about nine cents a peck (a *modius* at $6\frac{1}{3}$ *asses*), or less than one-half the usual price. He taught the people to derive profit from their position and to reward themselves

for their political activity — something the oligarchy had long known and practised. He had helped to restore and was now helping to ruin Italian agriculture. He had helped to improve and was now corrupting the people, and attracting all the shiftless, bankrupt, and worthless citizens to Rome. He was also imposing a great burden on the public treasury and in the end on the provinces.

Further, he renewed the agrarian law of Tiberius, although legally it was still in force. Probably he restored their former jurisdiction to the commissioners, and he may have allowed the Latins to share in the distribution of land.

Law concerning Equestrian Jurymen. — Besides these measures for protecting and strengthening himself and his party, Gaius Gracchus carried others with the view of dividing and weakening the hostile party, the nobles and the rich. In general, the senators had so far been the judges, or jurymen, in civil cases, in special commissions, and in the special court on provincial extortion (pp. 145–146). In his first tribunate, Gracchus seems to have proposed that three hundred knights should be admitted to the senate, and hence be eligible for jurymen. But as this proposal did not meet with the acceptance of the nobility, he provided, by a law of 122 (*lex judiciaria*), that as a rule all jurymen should be selected from the freeborn citizens (*ingenui*) who were thirty years of age and possessed the equestrian census ($22,000), but were not senators. He was himself authorized to draw up the first panel of jurors (*album judicum*).

The haughty nobles had looked down upon the rich knights, and had at times come into collision with them in the provinces, when trying to check their greed. Now the latter were, to some extent, placed on an equality with the nobility, they formed a more compact and distinct class, and became a controlling power. They were the judges of the nobles in the lawsuits, which affected all relations in

life. The chief result was, perhaps, that a provincial governor would now, if prosecuted on his return to Rome, face a jury of whom he could expect but scant justice in that corrupt age, if he had not connived at the unscrupulous practices of the knights and their agents. The old antipathies, the ever recurring rivalries and jealousies, could find an easy expression in the verdicts of jurymen. The law gave rise to almost constant discord and struggles. Truly might Gracchus say that he had thrown daggers into the Forum, that the citizens, or the noble and the rich, might lacerate one another with them.

In connection with this law the Acilian plebiscite was passed, which organized the court for cases of extortion, according to the new principles. The panel of the court was to consist of four hundred and fifty jurymen; senators, and the fathers and sons of senators, were to be excluded; and a successful prosecutor, whether Latin or foreigner, was to obtain citizenship, or, if he preferred, the right of appeal.

Law respecting the Province of Asia. — Partly to gratify the knights and partly to reimburse the public treasury for the distribution of grain, Gracchus, by another law, greatly increased the taxation of the province of Asia, and left the collection of the various dues to the large associations of knights. A partial or entire remission of the rents was in certain cases to be granted the knights, not by senatorial decree, but by law, in order that they might be less dependent on the senate.

Law on Consular Provinces. — By the last law in particular, Gracchus had encroached on the administrative sphere of the senate; he went still farther in carrying plebiscites respecting consular provinces, colonies, and roads. The senate had in exceptional cases left the assignment of provinces to the assembly, but as a rule it decided what provinces

the consuls and praetors were to govern, and thus exercised a great influence on the magistrates. Gracchus established by law the rule that the senate should determine before the consular elections what provinces the next consuls were to have. In this way he largely excluded personal and partisan considerations. To prevent delay, he ordained that tribunician intercession was not allowable against a senatorial decree in such cases. In this instance he went only so far as necessary, and introduced an excellent and important principle.

Laws on Colonies and Roads. — The laws providing for the establishment of colonies had before been passed at the instance, or with the sanction, of the senate. Gaius Gracchus carried, independently of the senate, a plebiscite authorizing the founding of Roman colonies at Capua and Tarentum; and he was probably the virtual author of the Rubrian law, which provided for the establishment of a Roman colony on the site of Carthage — the first one outside of Italy. Latins were permitted to become colonists at these places, provided they became Roman citizens. The renewal of colonization on this scale was a measure of importance, and the choice of sites was excellent. The selfish and short-sighted policy of the Romans regarding these three cities had been detrimental to lower Italy as well as to Africa, and the time had come for discarding it. The colonization of Carthage formed, moreover, a noteworthy political innovation, as it was contrary to the old principle that Italy was to be the ruling country, and the provinces were to be subject territory. On the other hand, it indicated how a permanent outlet might be found for the poor people of Rome, and promised to be an important step toward Latinizing the provinces.

In connection with the Italian colonies and the allotments of land, Gracchus encroached on another branch of

administration usually pertaining to the censors, consuls, and senate: he secured the passage of a law, or provision, authorizing the agrarian commissioners to construct roads.

Gaius Gracchus as Administrator. — During the two years 123–122, Gracchus showed himself an administrator of great ability, as well as a legislator. In the capacity of commissioner (*curator*), he superintended the execution of the law regarding the distribution of grain, he built magazines (*horrea Sempronia*), selected jurymen, enrolled colonists, constructed roads, led discussions in the senate, and practically chose one of the consuls of 122. In brief, he displayed marvelous energy and versatility, concentrated the most varied, extensive, and conspicuous functions of government in his own person, and was the foremost man and the controlling power in the state.

III. The Reaction and the Overthrow of Gaius Gracchus.

The Opposition to Gaius Gracchus. — The weakness and danger of Gaius Gracchus lay in the fact that he was absolutely dependent on a fickle and corrupt multitude, and was every year obliged to appeal to them for reëlection. He had from the first been an object of fear to the aristocratic party, and met with opposition at his first election to the tribunate. His law concerning the distribution of grain made him very popular, and he was reëlected without any difficulty. He had succeeded so far, though his chief constitutional measure, the law respecting jurymen, was carried by only a small majority. He had, however, not been able, or had neglected, to secure the election of nine democratic colleagues for 122; and the aristocratic opposition continued. In fact, the most experienced and shrewdest of his opponents had been planning, and were now ready for, a decisive contest.

Further Projects of Gaius Gracchus. — Gaius Gracchus seems to have been too sure of his popularity and his influence. Though holding the office of tribune, he left the city and traveled about in Italy, attending to his administrative duties. He had further legislative projects, but they were of no great interest to the urban multitude. He proposed, it would seem, that the centuries should vote according to an order decided on each occasion by lot. Together with Marcus Flaccus he made the proposal to concede citizenship to the Latins, and perhaps to grant the other Italian allies the rights of those Latins who were entitled to citizenship when settling in Rome (p. 94). This was an eminently just and statesmanlike proposition, and it would have removed the chief objection to the distribution of the public domain occupied by the allies. It bade fair also to conciliate so large a number of voters as would permanently insure democratic supremacy — a precedent for the enfranchisement of the negroes in our own times. But the multitude considered Roman citizenship too great a distinction and too copious a source of profit to be shared with the allies. Hence the bill was safely vetoed by another tribune and lost.

Bills of Livius Drusus. — This result indicated that the multitude were not loyal to Gracchus, and would be willing to support the highest bidder. Accordingly, the interceding tribune Marcus Livius Drusus, as the spokesman of the aristocrats, brought before the people three bills, providing that exemption from corporal punishment should be granted to the Latins, that the rent payable according to the agrarian law of Gracchus be remitted, and that twelve colonies of three thousand citizens each be established in Italy. This dishonest and rather clumsy scheme succeeded. Gracchus imprudently absented himself from the city for seventy days about this time, being busily engaged in founding the colony at Carthage, to which he despatched six thousand

colonists — Romans, Latins, and other Italians. His popularity waned, and on his return he was by fair means or foul defeated at the election of tribunes. On the other hand, his bitterest and most resolute opponent, Lucius Opimius, was elected consul for 121.

Death of Gaius Gracchus. — When the senate had once more become supreme, it had no further use for the Livian bills, which, except possibly one insignificant provision, were never executed. In place of founding a greater number of colonies, it singled out for attack the useful and important colony at Carthage, and decreed that it be abolished because of unfavorable omens. A tribune in 121 undertook to carry a law to this effect. The excitement again ran high, disorders arose, and martial law was declared (by the *senatus consultum ultimum*). The consul Lucius Opimius refused to negotiate with Gracchus and Flaccus, and attacked and killed about two hundred and fifty of their followers. Gracchus, who had fled across the Tiber, was at his own request killed by his slave, and Flaccus was slain by his pursuers. Opimius executed about three thousand of the adherents of Gracchus, and, commissioned by the senate, he then built a temple to Concord.

Character of the Legislation of Gracchus. — If Gracchus had succeeded in enlarging the senate and rendering it subservient, in making the centuriate assembly less plutocratic, and in extending Roman citizenship, he might by virtue of his political genius have remained the actual ruler of the state for an indefinite time. This was the tendency of his laws, and may have been his ultimate aim, since he apparently did not realize the instability of his popularity and the precarious character of a position based on annual reëlection without any military support or even the aid of an extensive "spoils system" and a monopoly of public funds.

As it was, the overthrow of the senatorial government was incomplete. He had weakened the governing class, but had established no substitute. He was himself the chief positive element in the new government, and when he died the revolution collapsed. The senate resumed control of affairs under the modified constitution, and sought, so far as possible, to annul his laws.

Fate of the Laws of Gracchus. — Most of the laws of Gracchus remained in force. The law in respect to appeal was to a certain extent impaired, as the execution of democrats without appeal formed a precedent. The Acilian law on extortion was after a time superseded by a more severe enactment. The colony at Carthage — the most important of all — was abolished, but the assignments of land there were valid. The colony at Tarentum remained. The old city continued, however, under a Greek municipal government. The colony of Scylacium-Minervium may have been founded by the aristocratic party. On the other hand, no colony was established at Capua.

The agrarian law of Tiberius was repealed piecemeal. Alienation of the lands assigned was soon allowed. This gave the lazy and shiftless a chance to sell, and the rich a chance to buy out, or drive away, the small farmers. Partly for this reason the reënactment of the law by Gaius Gracchus seems to have been of no great consequence, the number of citizens being about the same according to the census of 125 and that of 115. About 118 a plebiscite of Spurius Thorius prohibited further assignments of public land and thus abolished the agrarian commission. The present occupiers of public domain were to remain in possession on condition of paying rent, the proceeds of which were to be distributed among the poor. Perhaps the colony of Narbo Martius, the first permanent Roman colony outside of Italy, was founded as a sort of compensation for the abolition of

the commission. In 111 an agrarian law enacted that the occupants of the public domain and the possessors of the lands assigned by the commission should become the full owners thereof and pay no rent. It further decreed that henceforward the public lands were either to be leased or to be turned into public pastures, in which no one was to graze, free of charge, more than ten head of large and fifty head of small cattle. Thus the system of occupation disappeared, after serving for centuries as a means of enriching the governing class and ruining the lower classes, and after leaving the state in possession of public lands of only limited extent. Finally, the law confirmed to the Latins and other allies the rights in regard to public lands which had been guaranteed to them by their charters, or treaties.

Of the chief enactments of Gaius Gracchus, the laws respecting appeal, grain, the province of Asia, jurymen, and consular provinces still remained in force.

CHAPTER II.

THE OLIGARCHY, THE EQUESTRIAN COURTS, AND THE CITIZENSHIP OF THE ITALIANS, 111–88 B.C.

I. The Misgovernment of the Oligarchy and the Rise of Gaius Marius.

Incompetence and Corruption of the Oligarchy. — The oligarchy returned to power neither wiser nor better. It was more deficient than ever in statesmen and generals of ability. It was too selfish to approve the agrarian reforms of the Gracchi, too short-sighted and incompetent to attempt restricting the legislative powers of the revolutionary tribunate, or to deal with the question of the citizenship of the Italians. It did not venture to attack the distribution of grain, or, for a time, the law respecting jurymen, though it was filled with rancor against the equestrian class as well as against the proletariat.

The censors of 115 expelled thirty-two senators, probably not so much on account of their morals as their sympathy with the democrats. They appear also to have exhorted Marcus Aemilius Scaurus to carry a law which confined the freedmen to the city districts. Such a regulation properly belonged to the legislative, and not to the censorial, powers. Scaurus now became the first senator (*princeps senatus*) and continued to hold that position for about a quarter of a century.

In 106 an attempt was at last made to reinstate the senators as jurymen. The Servilian law (*lex Servilia judiciaria*)

seems to have provided that the list of senators should be included in the general panel of jurors. It was soon repealed, and the knights remained the controlling judicial power.

Revival of the Democratic Party. — The democratic opposition soon revived, but had no leader of ability. In the year 120 L. Opimius was impeached by a tribune for violating the Sempronian law concerning appeal. He was acquitted. The next year the tribune Gaius Marius carried a law enacting that the bridges (*pontes*), or passages, along which the voters went to the ballot boxes (*cistae*), should be made narrower, in order to make it more difficult for the nobles to stand by and influence the votes of their dependents. A new and more severe law on extortion (*lex Servilia repetundarum*), passed some years afterward, was the work of the subsequent democratic leader, Gaius Servilius Glaucia.

When, in the negotiations and the war with Jugurtha, the representatives of the oligarchy had displayed a venality and incompetence unexampled in Roman annals, the democratic party had an excellent opportunity to regain the ascendency; but, being without a real leader, it attacked individual oligarchs and not the faulty system, the oligarchy, which was sure to produce the same results in the future. By a Mamilian law a special commission was established in 109 for trying those implicated in the Jugurthine conspiracy. It condemned L. Opimius, three other ex-consuls, and a member of a priestly college. How ineffectual this procedure was, is indicated by the fact that the corrupt Scaurus became one of the presidents of the commission, and not only escaped, but was elected censor about this time. The Numidian affairs exposed, therefore, both the corruption of the government and the incapacity of the opposition.

Rise of Gaius Marius. — When the oligarchy had at last given the African command to an able general, Quintus Caecilius Metellus, and there was no adequate reason for interfering, the democratic party elected his lieutenant, Gaius Marius, to the consulship for 107, and placed him by a special decree in charge of the Jugurthine war. Marius, the tribune of 119, was a farmer's son, rude and uncultivated, but a man of great force and vigor and an able general. In Africa he reaped in the main the fruits of the work of Metellus and Lucius Cornelius Sulla — a potent cause of later rivalries and enmities.

Ascendency of Marius and the Democrats. — In 105 the Romans, who had been defeated several times before in campaigns against the Cimbri and Helvetians, suffered under the consul Gnaeus Mallius Maximus, and the proconsul Quintus Servilius Caepio, the terrible disaster at Arausio. As a consequence the democratic party regained the ascendency and elected Marius, who was still in command in Africa, and another new man (*novus homo*) to the consulship for 104. It conferred the province of Gaul on Marius by popular decree. Moreover, it employed its old tactics and assailed individual aristocrats. Caepio, who by popular decree had been deprived of his proconsulship and expelled from the senate, seems to have been imprisoned in 103; but the worthless man was rescued by a tribune and went into exile. Mallius also was impeached.

A change in the method of selecting priests was of more importance. The law of Gnaeus Domitius Ahenobarbus (*lex Domitia de sacerdotiis*), passed in 104, decreed that henceforth the pontiffs, the augurs, the keepers of the Sibylline books (*decemviri sacris faciundis*), and the masters of banquets (*tresviri epulones*), a college established in 196, should under certain restrictions be selected by seventeen districts chosen by lot, and then be coöpted by the respective colleges.

The democratic party was able to reëlect Marius consul four times in succession (for 104–101) during the war with the Cimbri and Teutons. This was mainly due to the danger in the North, but may in part have been the result of aristocratic maladministration in the second war with the slaves in Sicily.

In 101 Marius had been elected consul five times and for four years in succession — a precedent without parallel in Roman history. As the conqueror of the Teutons and Cimbri he was compared with Camillus and Scipio Africanus the elder. He was, beyond comparison, the first and the most popular man in the state. To him the people looked for deliverance from the incompetence and corruption of the oligarchy. His opportunities were excellent.

Military Reforms of Marius. — Marius could rely on the political support of his numerous soldiers, because he was personally very popular and he had revolutionized the Roman military system. Down to his time the system had in its main principles rested on the Servian organization of the militia, and every legionary was obliged to have a census, or rating, of at least $33, and perhaps of $88 (pp. 154–155). But the highest classes were more and more disinclined to serve in the army, and the middle classes were decreasing in number, hence it was necessary to make use of the poorer citizens and the subjects. Marius, accordingly, in 107 disregarded the property qualification and allowed every citizen of free birth to enlist. As the poor volunteered more readily than the rich, enlistment began to supersede the levy, or draft. He abolished the distinctions in equipment and in other respects, and placed all the legionaries on a level. He adopted a system of drill devised by Publius Rutilius Rufus, and introduced other improvements.

The equestrian centuries (*equites equo publico*) apparently served as an active arm of the service for the last time in

140, and were afterward succeeded in the main by horsemen furnished by the subjects. Finally, the practice of having a personal escort of citizens, which was introduced by Aemilianus in the Numantine war, led to the formation of a bodyguard, a privileged corps (*praetoriani*).

These changes were no doubt necessary, and contributed largely to maintaining Roman military superiority. They were also of momentous political importance. It was a dangerous precedent that a general should, on the plea of the emergencies of war, completely change the ancient system. But this was not the greatest danger. While the republican constitution was based on the idea that the citizens were soldiers, and that the soldiers were above all patriotic citizens, the new system, with its gladiatorial drill and its democratic organization of the rank and file, tended to form standing armies, and to develop a class of professional soldiers, whose only home was the camp, whose art was war, and whose hope, fear, and affection centered in their general.

As under the constitution the consular and tribunician powers, so under this system the army and the bodyguard, might in the hand of a master become the pillars of a monarchy.

Combination of Marius, Glaucia, and Saturninus. — Marius probably did not think of overthrowing the government by force of arms, nor could he trust his devoted soldiers to that extent. The example of Gaius Gracchus and his own tenure of the consulship indicated an easier and safer way. In any case he must secure a reëlection for the year 100, if he was to be able to provide for his soldiers, and have any prospect of reaching the climax of his hopes — a seventh consulship. As a candidate he was dependent on the democratic party and its leaders.

The chief men in the popular party were Gaius Glaucia, a base man, but a witty and effective street orator, who was

the author of a law respecting extortion, and Lucius Appuleius Saturninus, the most energetic and eloquent democratic leader since Gaius Gracchus, but ready to vie with the aristocrats in trickery and violence. Saturninus was tribune in 103, played a leading part in the prosecution of the aristocrats, and probably in this connection carried a law which was intended to cover specific acts of embezzlement and treason (*maiestas minuta*) committed in Gaul, but was capable of extension. To conciliate Marius and his soldiers, he secured the enactment of another law providing that the veterans of Marius should each receive about sixty-two acres (100 *jugera*) of land in Africa.

With these men Marius in 101 entered, it would seem, into an agreement: he was to seek a reëlection to the consulship, and Saturninus to the tribunate, while Glaucia was to be a candidate for the praetorship. They succeeded in their designs, Marius owing his election to bribery, and Saturninus resorting to assassination. They were now ready to execute their plans, as the colleague of Marius was subservient to him.

Laws of Saturninus. — Accordingly, Saturninus, who to a large extent had adopted the ideas and tactics of Gaius Gracchus, proposed a series of laws calculated primarily to win the support of the soldiers and the urban proletariat. The Gallic lands in the region beyond the Po were to be distributed among individual citizens, Latins, and other Italian allies. To insure the execution of this beneficial law, Saturninus inserted the provision that every senator should swear obedience to it under pain of being expelled from the senate and heavily fined. He further proposed that Roman colonies should be established in Macedonia, Achaia, Sicily; and also in Africa, since his former law had not been executed. The veterans of Marius, many of whom were poor, were to obtain about sixty-two

acres of land each in one of these colonies. If the public domain did not suffice, certain moneys which the democrats had perhaps already recovered for the state were to be spent on the purchase of more land. Lastly, the poor citizens at Rome were now to receive a certain quantity of grain each month at about one cent a peck in place of nine cents. Marius was to have charge of the allotment of lands and the founding of colonies, and he was authorized to receive three Latins into each colony and to confer citizenship upon them. During the Cimbrian war he had, by the way, arbitrarily conferred citizenship on two Italian cohorts. With such powers he might expect to remain the chief man of the state for an indefinite time.

The aristocrats opposed these bills with might and main. They made use of tribunician intercession and even of violence. But Saturninus ignored the intercession, repelled violence by violence, and carried the laws. The efforts of the democratic party seemed to be successful.

Death of Saturninus and Glaucia. — The condition of affairs soon changed, however. Marius and his associates had not been able to conciliate the knights, who were naturally conservative and disliked violence and riots. They had to face a united opposition of the nobles and the moneyed aristocracy. Besides, Marius, who was incapable in politics, did not agree with his reckless and violent confederates. He swore to observe the agrarian law, with a reservation which practically annulled his oath and called in question the validity of the law; and his attitude in other respects was ambiguous. Saturninus and Glaucia abandoned him and planned schemes of their own. Saturninus secured a reëlection to the tribunate for 99, and Glaucia, though legally not eligible, became a candidate for the consulship. They repeated the expedient of the preceding year, and caused the murder of Gaius Memmius, a competitor for the con-

sulship; then they occupied the Capitol to protect themselves. Martial law was declared. Marius forced them to surrender, and in violation of his promise allowed them to be massacred.

Revival of the Oligarchy. — Marius, having in this manner destroyed his influence among the democrats, and his political prospects, afterward left for the East; while his bitterest enemy, Metellus Numidicus, whom he and Saturninus had banished, returned triumphantly. The equestrian order and the proletariat were estranged through the recent events, and were bitterly opposed to each other. The oligarchy was once more supreme and seemed firmly established.

The new laws of Saturninus were declared null and void. Marius had not established a single colony, and his soldiers were put off with the founding of a colony in Corsica. The people in general had to be content with the colony of Eporedia beyond the Po. The oligarchy tried to get rid of some ex-tribunes by impeachment. Sextus Titius, for instance, who had ventured to carry an agrarian law in 99, was condemned, and his law declared invalid.

The Caecilio-Didian Law. — Chiefly to prevent legislative surprises and to impede tribunician legislation, the Caecilio-Didian law of 98 required that at least sixteen days (*trinundinum*) were to intervene between the day of announcing a bill (*promulgatio rogationis*) and the day set for voting on it, and that heterogeneous provisions (*lex satura*) should not be combined in one bill. The interval had usually been observed before; the combination of different proposals, as in the Licinio-Sextian law, had been forbidden before, but the prohibition was now to be more strictly enforced.

II. The Laws of Drusus and the Citizenship of the Italians.

The Oligarchy and the Equestrian Courts.— The antagonism of the knights and the city multitude (p. 185) was opportune and in some degree reassuring; still, the oligarchy was, no doubt, fully aware of its humiliation, weakness, and danger in submitting to the equestrian courts. The nobles were as ready as ever to prosecute each other; personal enmities were even bequeathed and inherited. These personal differences, and all other cases as well, had to be decided by the knights, who were often hostile to the litigants.

The oligarchy, moreover, considered the courts excellent political weapons, but could not rely on them at present. In 94, for instance, the ex-tribune Gaius Norbanus, who had played a leading part in prosecuting Caepio (p. 180) was arraigned by Publius Sulpicius Rufus on a charge of treason (*maiestas minuta*). He was defended by Marcus Antonius, the orator, and acquitted, partly no doubt because Caepio had for a time deprived the knights of their monopoly of the jury panel (pp. 178–179).

Whenever the interests of the equestrian class were concerned, the equestrian courts could not be depended upon to acquit the innocent or to condemn the guilty. The most notorious case of flagrant injustice occurred in 93. The ex-consul P. Rutilius Rufus, who was a model of integrity, a man of culture, and a distinguished officer, had been the lieutenant of Quintus Mucius Scaevola when he was governor of the province of Asia. He had assisted Scaevola in his exemplary administration and helped to protect the provincials against the exactions of the equestrian farmers of the taxes. As a result, he was accused of extortion, and, in spite of the absurdity of the charge, was condemned.

The issue of this trial showed plainly that the personal

safety of almost every senator was at stake, with the exception of such eminent men as Scaevola himself, and that the controlling power, at least in the provincial administration, now resided in the equestrian courts. But the administration of the provinces was the chief foundation of the senatorial government, the main buttress of the oligarchy. If, therefore, the government was to be able permanently to maintain itself, it was necessary for the nobles to regain control of the courts.

The Laws of Marcus Livius Drusus. — An attempt to abolish or modify the equestrian courts was likely to succeed at the present turn of affairs. Marcus Livius Drusus, the son of the tribune who was chiefly instrumental in the overthrow of Gaius Gracchus (pp. 174–175), came forward as the champion of reform. He was a young man of excellent character and high culture, he belonged to the highest nobility, and was very rich. In many respects he resembled Gracchus, but his chief aim was entirely different. While Gracchus had endeavored to overturn the government of the oligarchy, Drusus sought to strengthen and consolidate it. In his tribunate in 91 he proposed that three hundred knights be admitted to the senate, and that henceforth only senators act as jurors; a special provision was intended to facilitate the prosecution of jurors that had received bribes. Hitherto the equestrian jurymen had practically enjoyed immunity from prosecution, because the popular assemblies formed such cumbrous courts. This bill was intended to conciliate the best, or most conservative, elements of the equestrian class and to insure the future supremacy of the oligarchy. To overcome the violent opposition which might be expected, Drusus tried to win the support of the urban multitude by proposing other bills. These provided that a number of colonies be established in Italy and Sicily — a renewal of the proposal of his father in 122 — and that

an agrarian law be passed. In this way all the public domains in Italy and Sicily, including the Campanian lands and those occupied by the allies, were to be distributed. No opportunity for further distribution would be left. The monthly allowance of grain was to be furnished at a lower price than before, and every eighth *denarius* was to be coined of copper in place of silver and be plated, in order to enable the treasury to bear the additional burdens.

The Fate of the Laws of Drusus. — Drusus had enjoyed at first the support of M. Aemilius Scaurus, the first senator, Q. Mucius Scaevola, the foremost jurist, L. Licinius Crassus and M. Antonius, the greatest orators of the age, and of younger men like Gaius Aurelius Cotta and P. Sulpicius Rufus. His chief opponents were the consul L. Marcius Philippus, whom he arrested once during the contest, and Q. Servilius Caepio, a son of the consul of 106, whom he threatened to hurl from the Tarpeian rock. He met with the greatest opposition from the equestrian class, and was supported in an indifferent and lukewarm way by a great many senators. The large majority of the people were not interested in the bill respecting jurors, but favored the other bills. Hence Drusus, in violation of the Caecilio-Didian law, combined his proposals concerning jurors and the distribution of grain and lands, and forced them through in a violent and irregular way. Philippus induced the senate to decree that the laws were null and void. Drusus, who disdained to intercede, proceeded, notwithstanding the decree, to have them executed.

Citizenship of the Italians and Death of Drusus. — Drusus may from the first have intended to obtain citizenship for the Italian allies. At any rate he was suspected and accused of treason in his connections with them, and it was perchance mainly on that account that he had been deserted

by the senate. The law of Crassus and Scaevola (*lex Licinia Mucia de civibus regundis* or *redigendis*), passed in 95, had apparently annulled the old Latin privilege of acquiring Roman citizenship by settling and registering in Rome, and had instituted a court for punishing, by banishment to their own communities, those who illegally exercised the rights of Roman citizens. This law proved to be pernicious and was one of the immediate causes of the war with the allies.

It must already have been plain that a conciliatory measure was imperative. Drusus, who had kept this part of his plans in reserve, had bound himself by a promise to the Italian allies, and now proposed that citizenship should be granted to all of them. Perhaps he intended to combine this proposition with his deferred bill on the establishment of colonies, in order to secure the passage of both. However, one evening, before the day set for the meeting of the assembly, he was murdered by an assassin. No judicial investigation was made. One more of the noblest sons of Rome had perished in vain, and the last attempt to avert civil war had failed.

Law of Quintus Varius concerning Treason. — The civil or social war soon opened with the massacre at Asculum in the Picene territory in the year 91. Not the harsh and selfish rule of Rome for two centuries, not the Licinio-Mucian law, but Drusus, was charged with the blame for the insurrection. The party of opposition, of which the equestrian class formed the chief element, proceeded in the face of the impending crisis to punish his followers and to take revenge for the attack on the equestrian courts. With the assistance of armed knights, the tribune Quintus Varius, a base and dissolute man, carried, in violation of tribunician intercession, a law respecting treason (*de maiestate*), establishing a special commission to try those who had aided or abetted the in-

surrection. Scaurus was prosecuted by Caepio, but apparently without success. Aurelius Cotta, an intimate friend of Drusus, and a number of others were condemned. Although a senatorial decree ordered the closing of the courts during the war, the Varian commission continued its work of discord.

Extent and Organization of the Rebellion. — This warfare of prosecutions indicated that the party of opposition was hostile to the Italian allies, and the number of the rebels increased almost every day. The great majority of the Latins remained loyal; also the Umbrian and Etrurian cities, in which local aristocracies governed; and further, such Greek cities as Neapolis and Rhegium. But the other Italians, from Picenum in the North to Lucania and Apulia in the South, including in particular the Marsians and Samnites, rebelled and organized a government after the Roman pattern, with two consuls, twelve praetors, and a senate of five hundred. The projected state was named Italia; and Corfinium, the capital, was called Italica. These Italians were perhaps not superior in number to the Romans and the loyal allies, and were imperfectly organized, but they were better prepared for war.

Concession of Citizenship to the Italians. — The Romans began the war with their usual arrogance, but were on the whole worsted in the campaigns of 90. Besides, the secession of Nola, the capitulation of Venusia, and the incipient revolt in Umbria and Etruria contributed to humble the proud spirit of Rome. Public opinion changed, and for the first time in three centuries the Romans favored a compromise — no doubt the wisest thing possible. The primary aim was to insure the fidelity of the allies that remained loyal. The consul, Lucius Julius Caesar, carried in 90 a law (*lex Julia de civitate sociis et Latinis danda*) granting citizen-

ship to all the loyal allied Latin or Italian cities that desired it; that is to say, to the Latins in general, to the Etruscans, to Heraclea and Neapolis, and to the Latin colonies in cisalpine Gaul. The law may have contained also the provision that the new citizens should be enrolled in only eight of the thirty-five districts (*tribus*) and thus be made politically harmless. This was no doubt a selfish arrangement, but the Roman government could scarcely be expected to allow the popular assemblies to be revolutionized at a time when the old constitutional checks were ineffectual.

The next measure was intended to attract deserters and thus break down the rebellion. In 89 the law of Marcus Plautius Silvanus and Gaius Papirius Carbo conferred citizenship on all those citizens of allied communities who at the time were residents of Italy and reported within sixty days to the Roman praetor. Finally, the law of the consul Gnaeus Pompeius Strabo, passed in 89, gave the lesser Latin rights (p. 97) to Ravenna, and possibly to other allied communities south of the Po, and also to all the communities between the Po and the Alps which were organized after the Italian fashion. This was the first step in the important work of Romanizing the Gauls.

The Julian law prevented the extension of the rebellion, and the Plautio-Papirian law no doubt contributed largely to its rapid collapse. These two laws, together with that of Pompeius, extended Roman citizenship to all Italy south of the Po. If the Romans had exercised some self-denial, this result might have been attained with less sacrifice; as it was, it involved the loss of more than a hundred thousand lives, and caused irreparable injury to Italian prosperity.

The Plautian Law on Jurors. — The prosecutions before the Varian commission continued, and prevented the reconciliation of the factions at Rome. But the change of public opinion was evident in the judicial sphere, too. The tribune

Silvanus made use of the principle of popular sovereignty, and with the aid of the nobility succeeded in carrying a law which directed each district (*tribus*) to elect fifteen men. The five hundred and twenty-five men thus selected were to constitute the panel of jurors for the next year. The result was that senators and members of the lower classes, as well as knights, became jurors, and Q. Varius was condemned by his own commission.

The political difficulties were complicated and intensified by a financial crisis. In order to relieve the distress of the debtors, the city praetor, Aulus Sempronius Asellio, had recourse to the Genucian plebiscite of 342 (p. 73), and, in actions regarding debt, instructed the jurors in accordance with its provisions. As a consequence the enraged creditors attacked him while he was performing a sacrifice, and when he took to flight, they pursued and killed him. This murder also was perpetrated with impunity.

CHAPTER III.

THE SUPREMACY OF THE DEMOCRATS; THE DICTATORSHIP AND CONSTITUTION OF SULLA, 88–79 B.C.

I. The Laws of Sulpicius and the Supremacy of the Democrats.

Laws of Publius Sulpicius Rufus. — Rome was in a critical position. The party struggles, the personal rivalries, the financial difficulties, and the discontent of the new citizens, because like freedmen they had been confined to a small number of districts, threatened to lead anew to revolution and civil war. The time was past when patriotism silenced faction and sunk personal considerations. For the year 88 Lucius Cornelius Sulla, a man of remarkable coolness and great ability, who had won distinction by brilliant services in three wars, was elected consul. He had as his colleague Quintus Pompeius Rufus. So far he had played no important part in politics, and his chief duty was to wage war against the rebels in Campania, and against Mithridates, the powerful king of Pontus, who had been forced to begin hostilities by the intrigues of a Roman ambassador. In this work he was to meet with opposition.

Publius Sulpicius Rufus, the prosecutor of Norbanus and the greatest orator of the younger generation, had been elected tribune for 88. He had belonged to the section of Drusus, but joined the democratic opposition and apparently formed a combination with Marius. He proposed three bills: the persons banished by the Varian commission were to be permitted to return, the new citizens and

the freedmen were to be enrolled in all the districts, and no senator was to be allowed to owe more than about $440 (2000 *denarii*). For the sake of party advantage Sulpicius sacrificed the inviolability of the sentences passed by jurymen — a dangerous precedent. In regard to the new citizens he was in the main carrying out the policy of Drusus. The exclusion of senators who were in debt, and therefore dependent, might increase the independence of individual senators, but the measure was probably intended to remove political opponents.

Sulpicius had recently acted as a champion of constitutional procedure, but now resorted to violence himself. He forced Sulla to revoke a proclamation of holidays (*feriae imperativae*), which made meetings of the popular assemblies illegal for the rest of the year. Then, on Sulla's departure, he carried his bills and the additional provision that, in place of Sulla, Marius should as proconsul be placed in charge of the province of Asia and the Mithridatic war.

Civil War and Death of Sulpicius. — Sulla was not willing to yield the command to an old rival, and he could rely on his soldiers, who, partly through his own management and partly as a result of the military reforms of Marius, were simply mercenaries who were devoted, above all, to their leader and eager for Asiatic spoils. Though the superior officers, with one exception, refused to follow him, he marched on Rome and occupied the city with his legions. This was the first instance of the kind, and introduced a new epoch in Roman history. Civil war was, however, only the natural development of a course of events begun by the massacre of Tiberius Gracchus and his followers, and facilitated by the senatorial policy of leaving the city without effective police protection. The mob gave way to the army. Sulpicius, with Marius and his nephew and adopted son, Gaius Marius, were probably by a senatorial decree — in any case without due process of

law — declared public enemies, whom any one might kill with impunity. Sulpicius was slain; the others escaped, but were then banished, and their property confiscated. The Sulpician laws were canceled by a decree of the senate.

Laws of Sulla and Pompeius Rufus. — With the aid of his colleague, Sulla secured the adoption of a series of enactments, in order to strengthen the oligarchy and prevent future revolutions. The assembly of centuries was once more to be organized according to the Servian principles, as it had been before 220. The knights, and others who possessed an estate of $2200 or more, would then form a majority. No tribune was to lay a bill before the people without the previous sanction of the senate, as was the case before 287. This condition was intended to serve as a substitute for the former political or religious veto, which had practically been lost during the period of revolution since 133. Three hundred members of the conservative party were admitted to the senate. The economic conditions were to be improved by the enforcement of the legal maximum of twelve per cent interest and the establishment of colonies.

Although these laws had been carried by means of an army, resolute magistrates might have been able to maintain them and uphold the senatorial government. Sulla had, however, not secured favorable results at the elections. L. Cornelius Cinna, a determined but worthless democrat, was elected consul for 87, together with Gnaeus Octavius, a conservative. A number of the tribunes were also democrats. Moreover, Pompeius Rufus, who was to have charge of cisalpine Gaul and the army in the North, was killed by the soldiers, probably through the instigation of the proconsul, Gnaeus Pompeius Strabo. Nevertheless, Sulla in the spring of 87 left Italy for the East, where his presence was imperatively needed.

The Civil War and the Laws of Cinna. — After the departure of Sulla, Lucius Cinna, who had received a bribe from the adherents of Marius, proposed that the new citizens and the freedmen be enrolled in all the districts — a renewal of the Sulpician law — and that Marius and the others who had been declared public enemies with him should be restored. When he disregarded tribunician intercession and attempted to carry his proposals by force, he was driven out of the city by Octavius, amidst terrible bloodshed. He was thereupon deposed as consul by a senatorial decree, and another consul was elected. The conservatives did not follow up their victory, however, and Cinna obtained the support of the army before Nola, and especially of the new citizens. Following the pernicious example of Sulla, he marched on Rome and united with Marius. To get aid in this emergency, the senate apparently extended the term of the Plautio-Papirian law and conferred citizenship on all the Italian communities that had laid down their arms, but had hitherto remained destitute of rights (*dediticii*). Nevertheless, it was compelled to surrender. Marius demanded that the bill in regard to himself and the other exiles should be passed. This was accordingly done. With his entrance into the city merciless slaughter of the adherents of the aristocracy began. Of the eminent men the consul Octavius, the ex-censor L. Julius Caesar, the orator M. Antonius, and others were slain. Finally Quintus Sertorius put an end to the wholesale butchery by cutting down Marius's bodyguard of bandits. Sulla was declared a public enemy, his house was leveled with the ground, his property confiscated, and his laws declared null and void.

Supremacy of Cinna. — For 86 Cinna appointed himself and Marius consuls without any election. Marius died shortly after, on the thirteenth of January. Cinna then

made L. Valerius Flaccus the younger, his colleague. The adherents of Sulla had now for the most part been killed or had fled, and a period of comparative tranquillity ensued. The courts were in session and the Plautian law concerning jurors (pp. 191–192) was perhaps repealed about this time. Flaccus carried a law providing that debtors might cancel their obligations by paying one-fourth, or twenty-five per cent. He was intrusted with the conduct of the Mithridatic war as the successor of Sulla, and proceeded with two legions to Asia. He was murdered, however, and his army afterward joined Sulla.

The censors of 86, like those of 89, were not able to enroll all the new citizens, the number registered being only four hundred and sixty-three thousand, but they revised the roll of the senate. Cinna appointed himself and Gnaeus Papirius Carbo consuls for 85 and 84. But early in 84 he was killed by his soldiers. Carbo tried to govern without a colleague, but was compelled to yield to the demand for another consul.

Character of Democratic Rule. — The period from the end of 87 to Sulla's return in 83 is the only instance in which the democrats governed as a victorious party for a considerable time. It is characteristic of the incapacity, as well as of the dishonesty, of these so-called democratic leaders (*populares*) that apparently nothing was done to introduce democratic constitutional amendments. To be sure, they reduced the senate, in the main, to a political tool; but they trampled on the popular rights even in the matter of consular elections, and left a precedent for future tyrants. At the time of Cinna's death nothing had been done to improve economic conditions by colonization or by the assignment of public land, or to crush the rebellion of the Samnites, or apparently even to organize Italy under the new conditions.

At last, as a campaign measure against Sulla, Carbo secured in 84 a senatorial decree providing that the new citizens and the freedmen be registered in all the districts (*tribus*). The Sulpician law may have been declared valid. Another popular measure was the establishment of a colony at Capua.

Sulla's Return and Conquest of Italy. — In the early part of 83 Sulla, with whom negotiations had been carried on without any results, landed with his army at Brundisium. He was in a very critical position, but was saved mainly by the incompetence of the democratic consuls — L. Cornelius Scipio Asiaticus and Gaius Norbanus, who had been tribune in 104. He was joined by Q. Metellus Pius, M. Licinius Crassus, Gnaeus Pompeius, the son of Strabo, and other aristocrats. In order to win support, he guaranteed to the former Italian allies citizenship and equal suffrage. He was on the whole successful in the campaigns of 83–82. Marius the younger and Carbo were the democratic consuls for 82. Toward the end of the year Rome was in imminent danger of annihilation by the democrats and rebels; and Sulla himself came near being defeated at the Colline Gate, but finally conquered. As a result of this battle and the other victories the democratic party was lost, and the rebellion against Rome was in the main at an end. Sulla was absolute master of Italy, and able to establish a monarchy or any other form of government he might desire.

II. The Dictatorship of Sulla, the Popular Assemblies, the Senate, and the Magistrates.

Nature of Sulla's Dictatorship. — Conservative and devoid of political ambition, Sulla wished to restore the oligarchy. He well understood the general incompetence of the aristocrats and the great difficulties in the way of his design, and

he determined to perform the work of restoration himself. According to his directions the senate elected the first senator, the elder L. Valerius Flaccus, interrex, as the two consuls were dead. Flaccus carried a special law under which he appointed Sulla dictator for the making of laws and the regulation of the state (*legibus scribundis et rei publicae constituendae*). Sulla was to have power to inflict the punishment of death, to confiscate property, to found colonies, to establish or abolish urban communities, and to grant or to take away kingdoms from foreign rulers. These plenary powers he was to possess until he had regulated the state. In addition, his acts as consul and proconsul were sanctioned. This new office had little in common with the old constitutional dictatorship, excepting the name. It resembled to some extent that of the decemvirs, and was practically a reëstablishment of the Tarquinian monarchy.

Proscriptions and Confiscations of Sulla. — Sulla, who after the battle at the Colline Gate had massacred several thousand prisoners of war, now began to display a cold-blooded and horrible cruelty toward his political opponents. He published the names of upward of four thousand seven hundred persons to be outlawed, including about forty senators and sixteen hundred knights. He offered a reward of about $2640 (12,000 *denarii*) for the execution of each outlaw, and threatened with severe punishment those who aided a proscribed person. Many innocent persons were murdered, because they were rich or were obnoxious to Sulla's favorites. The names of some victims were added to the proscription list after the assassins had done their work.

Sulla confiscated the property of those proscribed and of those who had fallen in the armies of the enemy, and sold it for the benefit of the public treasury. The children of such persons were to be incapable of holding office, partly,

no doubt, in order that they might not disturb the future owners of confiscated property. He did not at all disdain to enrich himself, his wife, his relatives, and his dependents by purchases at nominal prices or by gifts of estates. The enormous extent of the confiscations is indicated by the fact that, in spite of the greatest depreciation of values, the state realized from the sales some $19,000,000 (350,000,000 *sestertii*). The first of June, 81, was fixed as the limit for closing the proscription lists and the auctions.

Citizenship. — By these measures Sulla facilitated the restoration of the oligarchy, and secured a number of zealous supporters, whose welfare and safety depended on his government. He probably began very early to reorganize the state. As a rule he seems to have allowed the new citizens to retain the equal rights which they had obtained under the democracy. But he made numerous exceptions. While he rewarded some towns, he punished others by the confiscation of a part, or the whole, of their territory, and in other ways. The citizens thus dispossessed — for example, the inhabitants of Volaterrae — were deprived of Roman citizenship and given the lesser Latin rights (*jus Arimini*, p. 97). Samnium was laid waste and placed on the same footing as the Bruttian country.

The freedmen he confined, as of old, to the four city districts. On the other hand, he conferred citizenship on more than ten thousand slaves (called *Cornelii*) that had belonged to the outlaws, and made them his bodyguard.

Popular Assemblies. — Sulla apparently did not consider it worth while to complete the still very imperfect registration of the citizens by means of a census. Nor did he attempt to divide all the Roman territory proper into thirty-five districts according to the original purely geographical principle. The districts had in fact lost their

importance in the public administration, as the temporary tax had not been collected since 167, and the military levy was being superseded by voluntary enlistment. He was probably still less inclined to reorganize the popular assemblies and seems to have left their organization as he found it. Besides, he did not directly interfere with their legislative, or to any large extent with their electoral, powers; but he practically deprived them of their judicial functions. While he allowed them to remain formally sovereign, he intended to have them play an insignificant part in his constitutional scheme, and for the time being he held them in check by his servile bodyguard.

Membership of the Senate. — Sulla desired that the senate should be practically the supreme organ in his system of government. For this purpose he had to supplement its ranks, now thinned by war and executions, and to insure its independence. Perhaps with the coöperation of the several districts, he chose about three hundred new senators from the equestrian class. He no doubt selected as many as possible from the old senatorial houses that were loyal to him; but others were upstarts, whom military service, wealth, or favoritism elevated to distinction.

Admission of Senators. — By a special law he also provided for a regular admission of new senators in the future. By 122 at least, the plebeian ex-aediles, and by 102 the ex-tribunes, as well as the former consuls, praetors, and curule aediles, had obtained a legal claim to a seat and vote in the senate. It was now enacted that every ex-quaestor should enjoy the same privilege and practically become a senator by virtue of having filled the quaestorship; and, to maintain the number of senators at about six hundred, the number of quaestors was raised to twenty. In this way the senators became practically independent of censorial appointment.

In the ordinary course of affairs they were also safe from the censorial power of expulsion, and the oligarchic principle that they should enjoy a life tenure of their seats was established.

Powers and Influence of the Senate. — The senate was to be the only privileged order of any importance. Sulla accordingly humbled the equestrian class in different ways. His chief measure was to deprive the knights of the privilege of being jurymen and to restore it to the senators. Indirectly he thus made the senate once more independent, and furnished it with very efficient means of judicial control, especially in regard to the provincial governors. By reason of this and other changes the senate had apparently a fair opportunity to become, as of old, supreme in legislation, administration, and control of the courts.

Degradation of the Tribunes. — The tribunes had in general been the democratic leaders and the principal antagonists of the senate from the time of the Gracchi to that of Sulpicius, and were now to be rendered harmless and subservient; abolition of the office does not seem to have been contemplated. Sulla decreed that only senators should be eligible to the tribunate, and ex-tribunes were to be incapable of holding any other office. In this manner he intended to prevent the members of the nobility, which had usually furnished the revolutionary leaders, from entering on a career of tribunician demagogism. But in case the opposition should still seek expression through the tribunate, he renewed the old provision that no tribune was to submit a bill to the people without the previous sanction of the senate. Perhaps he also took away the criminal jurisdiction of the tribunes, and he certainly restricted their power of intercession. In consequence of these regulations the tribunate seemed to be a shadow without substance.

Qualifications for Office. — For the benefit of the oligarchy, Sulla increased the qualifications for office and required that no one should hold the quaestorship before the age of thirty-seven, the praetorship before the fortieth, or the consulship before the forty-third year (pp. 139–140). It seems, however, that those who declared their intention to canvass for the tribunate or an aedileship were allowed to fill the quaestorship at the age of thirty. Only ex-quaestors were to be eligible to the praetorship, and, as formerly, ex-praetors alone were eligible to the consulship. Sulla thus retained the two years' interval between these two offices, but permitted reëlection to the same office after the lapse of ten years.

Consuls and Praetors Confined to Italy. — In addition to these shackles on individual activity and ambition, Sulla restricted the consuls and praetors in the exercise of their respective powers. While in former times the consuls had regularly had charge of important wars in the provinces and elsewhere, and usually the majority of the six praetors had down to the time of Gaius Gracchus been governors of provinces, Sulla established the rule that all these magistrates should remain in the city during their year of office, the consuls devoting themselves to legislative and administrative affairs, and the praetors to the administration of justice. In former times the sacred city limit (*pomerium*, pp. 24–25) had in general separated the civil sphere (*domi*) from the military (*militiae*); now, all Italy proper, whose northern boundary was perhaps at this time changed from the Aesis to the Rubicon, was to be civil territory, where as a rule no commanding general and no troops were to be found. Thus the consuls, and the praetors as well, practically lost their military powers, their importance was reduced, and the dangerous combination of supreme authority in political, as well as in military, affairs was avoided.

Provincial Government. — In the course of about one hundred and sixty years the number of provinces had increased to nine, and by the time of Gaius Gracchus the judicial business of the capital was assigned to three jurisdictions, or departments (*provinciae*), but there were only six praetors to fill these twelve positions. The senate, it would seem, omitted to remedy this condition of affairs, partly in order to prevent outsiders from entering the nobility through the praetorship, but chiefly in order that it might have greater scope and liberty in deciding what departments or provinces the praetors should have, and in rewarding ex-consuls and ex-praetors by extending their authority and granting them lucrative provincial governorships.

Sulla, on the other hand, decided that on leaving office all the consuls and praetors were, as proconsuls and propraetors respectively, to become provincial governors, the senate determining only what provinces were to be consular and what praetorian. He organized cisalpine Gaul as a tenth province, increased the number of praetors to eight, and thus made the number of consuls and praetors leaving office every year correspond to the number of provinces. In this way he removed an eminent cause of disorder and an excellent opportunity for intrigue and favoritism. Moreover, every governor was to leave his province within thirty days after the arrival of his successor.

Practical Abolition of the Censorship. — The censorship had been one of the buttresses of the nobility in its earlier days, but had to a great extent lost its political, and especially its moral, importance. Sulla set it aside. The senate was in practice recruited by ex-quaestors. The enrollment of citizens was incomplete and the assessment of their property was antiquated; but this was of little consequence when the army was raised in a large measure by enlistment and the temporary tax was not levied. If the register of voters was

imperfect, Sulla probably did not care. He may purposely have omitted to revise the lists of knights, in order to demoralize the equestrian class. The remaining censorial functions, which were connected with the finances and the public works, had occasionally been performed by the consuls, and might become a part of their regular duties.

Coöptation and Increase of Priestly Colleges. — Sulla considered it advisable to restore the chief colleges of priests to the oligarchic party, and to strengthen them. Accordingly he annulled the restricted popular right of election (p. 180), and provided that the pontiffs, the augurs, the keepers of the Sibylline books, and the masters of sacrificial banquets should have their old power to fill all vacancies in their respective colleges. He also increased the number of members to fifteen in the first three colleges and to seven in the last. The increased numbers corresponded better with the more numerous senate.

III. The Judiciary and the Municipal Government. General Observations.

Reorganization of the Judiciary. — The reorganization of the judicial system was one of the most important and permanent of the reforms of Sulla. After the establishment, in 149, of the special court for cases of extortion, other similar courts had been instituted. Sulla regulated those which already existed, and organized others. He decreed that the six courts for trying cases of extortion (*quaestio repetundarum*), of bribery at elections (*ambitus*), embezzlement (*peculatus*), treason (*maiestatis*), murder (*de sicariis et veneficis*), and probably of heinous fraud (*falsi*) should each be presided over by a praetor; and the two remaining praetors were, as formerly, to have charge of civil cases, one (*praetor urbanus*) having the suits between citizens, and the other

(*praetor peregrinus*) those to which one or more parties were foreigners. These changes necessitated a more exact definition and classification of crimes and misdemeanors, and consequently involved a development of criminal law, as well as of criminal procedure. Other results were more or less indirect. Trials for high treason and other political offenses were in general transferred from the popular assemblies to the court for cases of treason; and hence the tribunes, as well as the people, to that extent lost their old jurisdiction. Since these six courts, moreover, did not have the power to sentence a criminal to death, capital punishment for such offenses was practically abolished. These courts also encroached on the old sphere of the civil law and the jurisdiction of the aediles. Under these circumstances the present senatorial privilege of furnishing the jurymen was of the highest importance.

Military Colonies. — In the course of the year 81 Sulla provided for his legions, amounting perhaps to one hundred and twenty thousand men, by assignments of public land and by the establishment of colonies, — for example, at Faesulae, Praeneste, and Pompeii. Only one colony was founded outside of Italy, at Aleria in Corsica. He thus redeemed his pledges to his comrades in arms, increased the number of small Italian farms, and established garrisons that would defend his constitution along with their own position and possessions. To secure permanent results, he made the allotments of land inalienable.

Introduction of Municipal Government. — In connection with these colonies a system of municipal government seems to have been introduced on a large scale. The old Roman colonies had not possessed local self-government (p. 99). But during the earlier part of the second century B.C., when the Roman colonies were superseding the Latin, they were

granted a more favorable position. With the present extension of Roman citizenship from the Rubicon to the strait of Messana, further changes were necessary. A system of local self-government is first found in the democratic colony of Capua, which was abolished by Sulla. It was now introduced in the Sullan colonies, in the old, formally sovereign communities, and also in mere judicial districts, or circuits (*praefecturae*), when they were organized as Roman municipalities.

Each municipality (*municipium, colonia, praefectura*) had its citizenship (*domus, origo*), and its popular assembly (*comitia tributa* or *curiata*) with the power to elect municipal magistrates and to pass ordinances. A council of one hundred (*decuriones, centumviri*) corresponded to the Roman senate, a board of two men (*duoviri jure dicundo*) to the consuls, and another board of two corresponded to the curule aediles; or there might be a commission of four (*quattuorviri jure dicundo* and *aediles*). There were also municipal quaestors, pontiffs, augurs, and other officials. But the organization and the official titles were not the same in all the municipalities. The local government had, to a certain extent, charge of the administration of justice in civil and criminal cases, of financial affairs, and of public works. Wherever the local and the central authorities had concurrent powers, the former yielded in case of conflict — as they do in the United States. This municipal system was one of the most remarkable and important reforms in the history of Rome, and proved to be a potent factor in the development of mediaeval and modern municipal institutions.

Regulation of Finances. — Sulla regulated the finances, but does not appear to have thought of reforming the financial system. He recovered for the treasury the income from the public lands in Campania, and abolished the distribu-

tion of grain, which seems to have been restricted some time before. His adherents had indeed been provided for and needed no allowance of grain, but the great number of persons who had been impoverished by war and by his confiscations joined the rabble at Rome, and awaited an opportunity to secure a hearing by influence or force.

Reëstablishment of Constitutional Government. — Sulla had caused consuls to be elected for 81, and was chosen consul himself for 80, together with Q. Caecilius Metellus Pius. He desired to reëstablish constitutional government, and regarded his consular year as a test of his constitution. The result was apparently favorable, the pacification of Italy was almost complete, and the provincial governors were loyal to the oligarchic government. Sulla accordingly considered his work finished, declined a reëlection, and allowed the elections for 79 to take their course. Early in 79 he resigned the dictatorship of his own free will; and in 78 he died.

Observations on the Constitution of Sulla. — Sulla was a conservative aristocrat. He was actuated by the same selfish class spirit, held the same narrow views, and was characterized by the same lack of political originality as the oligarchy in general. The first steps of his restoration — the proscriptions and confiscations — were imitations of the doings of Nasica and Opimius, executed on a large scale and with a dispassionate calmness truly horrible. As he was not a creative statesman like Gaius Gracchus, but simply a man of remarkable administrative ability, he probably did not consider the advisability of establishing a permanent monarchy or even of creating an aristocracy selected from, and representative of, the best elements in the new Italian state.

Like a true aristocrat, he wished to restore an utterly

worthless oligarchy, which was incapable of carrying on the government, and which he knew to be incapable. He was a general who of his own accord restored a cowardly and incompetent garrison, gave it a few more catapults of the same old type, and then left it to shift for itself. His constitution did not contain any original ideas. Its essential features were either renewals of antiquated provisions, or the extension and regulation of existing institutions, such as the admission of ex-quaestors to the senate and the increase of the number of criminal courts. He neither improved, nor effectually restricted, nor abolished, the popular assemblies, although it was absurd that the multitude in one Italian city — Rome — should in practice remain legally competent to enact the laws of the Italian state. In general his constitution was a superficial modification, while the circumstances demanded a thorough revision.

Means of Maintaining the Constitution. — During the last half century violence had repeatedly run riot in the capital, and some of the constitutional limitations had been ignored by democrats and aristocrats alike. The lawless character of the politicians and the urban multitude was manifest. The spirit of the soldiery was sufficiently indicated by the fact that several Roman generals had been murdered by their soldiers within a few years, and that Sulla had without difficulty led his army against Rome and Italy. Moreover, three of his chief officers were insubordinate or disobedient even during his dictatorship. Of these, Gnaeus Pompeius and L. Licinius Murena were rewarded, and Q. Lucretius Ofella was butchered. Under such conditions of lawlessness, treachery, and insubordination, Sulla established the oligarchic government and based it on bloodshed and confiscations. Nevertheless, it was expected to maintain itself by means of various constitutional provisions, without even a police force except a rabble of freedmen (the

Cornelii). A body of defenseless civilians, — the senate, — residing in the civil territory of Italy proper, was to command the provincial governors and the mercenary armies. A few years sufficed to furnish a commentary on this ingenious arrangement.

Value of Sulla's Work. — Sulla had, however, contributed the most toward checking the Italian rebellion in its early stages, had finally crushed it, and had put the stamp of finality on the union of all Italy in so far as it depended on the equality of rights of all the Italians. For the time being, he had saved the state, and he had inaugurated very important reforms; but he is also responsible for introducing constitutional changes and arousing political animosities which later led to new civil wars.

CHAPTER IV.

THE RESTORATION, THE EXTRAORDINARY MILITARY COMMANDS, AND THE CATILINARIAN CONSPIRACIES, 79–62 B.C.

I. The Restoration.

The Oligarchy. — The oligarchy had been reinstated, and henceforth presents in general the same characteristics until the end of the republic. Of the older generation only one eminent man was left — L. Marcius Philippus, a Roman Talleyrand, who had shown remarkable adroitness in always joining the rising or dominant party. He soon disappeared from the scene of action. The chief men of the oligarchy at the time of Sulla's death were Q. Metellus Pius, the consul of 80, who was an able and experienced officer; Q. Lutatius Catulus, a man of culture, but of moderate ability; and the brothers Lucius and Marcus Lucullus, both able officers. The oligarchic party naturally contained a number of insignificant nobles and also the new senators of the equestrian class. As a rule it was supported by the latter class, and enjoyed the benefit of the financial connections of the knights throughout Italy. It was aided by the colonists of Sulla, and especially by its own connections with the leading men in the Italian municipalities. Through the organization of these forces it was for a number of years usually able to control the elections of consuls and praetors.

Gnaeus Pompeius. — Among the men who were neither strictly adherents of the oligarchy nor democrats, Gnaeus Pompeius was preëminent. Born in 106, he had served at first

in the ranks of the democrats, but had early joined the side of Sulla. He had celebrated a triumph before holding any magistracy, and was considered second only to Sulla. Compared with the men of his time, he was a moral, honest, and worthy man. He was an excellent soldier and an able general. But he was not a politician, much less a statesman. He had risen too rapidly, hence considered himself entitled to, and aspired to, a special position in the state. He had, however, neither the determination nor the courage to seize the opportunity when within his grasp, and yet was not content to be one of the many.

Marcus Crassus. — Marcus Licinius Crassus also did not attach himself definitely to any party, but pursued merely personal aims. He was somewhat older than Pompeius, had distinguished himself under Sulla, and was very active, persevering, and greedy of gain. He had laid the foundation of his fortune during the proscriptions and confiscations of Sulla, was later a builder and banker, but disdained no source of profit. As a result he became the richest Roman of his time, and, in spite of enormous political expenses, was still worth more than $9,000,000 (HS. 170,000,000) not long before his death. Wealth was to him a means of obtaining political influence. He favored his friends with loans "on call," could thus make a great number of them bankrupt, and had them in his power. He was accordingly safe from attack even by rash politicians. When everything seemed to be for sale, why should he not buy Rome and become its master?

Julius Caesar. — Gaius Julius Caesar, later so closely connected with Crassus and Pompeius, was, at Sulla's death, a young man of about twenty-four, since he was probably born in 102. As the son-in-law of Cinna and a relation by marriage of Marius, he might be expected to enter the ranks

of the opposition. He had defied Sulla and proven himself courageous and energetic in Asia, too; but the dissolute young man was not as yet an influential politician.

Marcus Tullius Cicero. — Marcus Tullius Cicero, one of the noblest men of his time, was of about the same age as Pompeius. During the lifetime of Sulla he had displayed skill and intrepidity as an advocate, and had established a reputation as a rising orator. By nature peaceful, moderate, and humane, he was essentially an opportunist; but he possessed neither the political sagacity nor the unscrupulousness of Philippus, and was destined to become, not an associate, but a subordinate, of the great political leaders.

The Democrats and the New Opposition. — Of the former moderate party, Gaius Aurelius Cotta, who had been recalled by Sulla, was the only man of note still remaining. He and his associates were inclined to modify the oligarchic constitution in favor of the democrats.

The chief democratic leader now surviving was Q. Sertorius, perhaps one of the ablest men that Rome produced, but he was an outlaw and was engaged in a hopeless rebellion in Spain. The democratic party in Italy comprised those who were democrats by conviction, and in particular young men who, by professing popular aims, either wished to gain the empty honors and distinctions which were so much coveted, or real power and influence. Under proper leadership it might hope to obtain aid from all the discontented and bankrupt classes: the inhabitants of the regions beyond the Po, who had only Latin rights; the freedmen, whose suffrage had been restricted; the knights, who had lost the privilege of being jurors; the urban multitude, who had been deprived of their cheap grain; those who had lost their property by the confiscations; the friends and relatives of the proscribed and of those fallen in conflict

against the oligarchy; and numerous men of ruined fortunes. These classes had very different objects and pursued different methods, but most of them were ready to support the chief democratic aim — the restoration of the tribunician power. The tribunes were expected to prove efficient instruments against the oligarchic party, and the magic charm of the name itself was revealed in the revolution of Rienzi, fourteen hundred years later.

The Revolt of Lepidus. — Even during the lifetime of Sulla the opposition to the oligarchy had revived. The citizenship of an inhabitant of Arretium was recognized by the court of ten (*decemviri stlitibus judicandis*) in spite of the Cornelian law (p. 200), and as a consequence all who had been deprived of citizenship by that law began to exercise their former rights.

For the year 78 the seditious M. Aemilius Lepidus was chosen consul with Q. Lutatius Catulus as his colleague. As there was no leader of the opposition, he assumed the rôle from personal motives. Still, when after the death of Sulla the tribunes requested that the tribunician power be restored, he opposed this step and did not identify himself with the democrats. But he proposed that the distribution of grain should be renewed, those proscribed and in exile be recalled; those whose property had been confiscated were to be reinstated, and the law depriving the people of Volaterrae and others of citizenship was to be revoked. By these bills he expected to win the support of most of the discontented classes. He was energetically resisted by Catulus, and succeeded only in reëstablishing the distribution of grain under certain restrictions. In Etruria disorders arose, and the people of Faesulae seized their lost estates by force. The senate very unwisely sent Lepidus and Catulus there to restore peace. As was to be expected, Lepidus raised an army, and in 77 led it against the capital, but was defeated

outside the walls. He went to Sardinia, where he soon died.

Pompeius in Command in Spain. — The war had been ended, but the weakness of the oligarchy was evident, and invited further attacks. Pompeius, who had been employed as an independent commander during the revolt, did not disband his army, but seized the favorable moment and demanded to be sent to Spain against Sertorius. The consuls of the year were incompetent, and the senate reluctantly conferred on him proconsular authority and the command in hither Spain. It is characteristic of the times that the senate in this case exercised the popular prerogative of conferring supreme authority (*imperium*) on a private man — an act contrary to the spirit of the constitution. It thereby encouraged the pretensions of Pompeius, and another step was taken toward monarchy.

The Democratic Party. — Though the democratic party was weakened by the failure of Lepidus, it was encouraged by the progress of Sertorius, and soon recovered some strength on account of the misgovernment of the oligarchy. The restoration of the tribunician power remained the sum and substance of the democratic demands. Several tribunes carried on agitations, and with the aid of the moderate group of aristocrats achieved minor successes. Gaius Aurelius Cotta, consul in 75, secured the enactment of a law making ex-tribunes once more eligible to other offices. Later the distribution of grain was regulated, and a Plautian law granted pardon to the associates of Lepidus.

Combination of Pompeius, Crassus, and the Democrats. — Fortunately for the democrats, there was discord in the camp of the oligarchy. After the assassination of Sertorius, Pompeius had gained an easy victory and returned to Rome in 71,

During the war in Spain he had complained of the senate in a bitter and threatening way, and could now scarcely expect of the oligarchy the rewards he desired — a triumph and the consulship for 70. He had, moreover, never filled a regular magistracy. To insure success, he retained his devoted army and sought the assistance of the democrats. Crassus, who had been of great service to the state during the war with the slaves under Spartacus, wished to secure a minor triumph (*ovatio*) and the consulship for 70 — one year before the legal time. Although he had reason to be jealous of Pompeius, he was ready to join him on condition of mutual support. He also remained at the head of his army. The combination of Pompeius, Crassus, and the tribune M. Lollius Palicanus, as the representative of the democrats, was irresistible. The generals promised to restore the tribunician power and to reform the courts; in return they obtained the concessions they wanted, and were elected consuls for 70.

First Consulship of Pompeius and Crassus. — On entering office Pompeius and Crassus carried a law fully restoring the powers of the tribunes. Later, the praetor L. Aurelius Cotta, a brother of the consul of 75, introduced a bill concerning the judiciary (*lex Aurelia judiciaria*), which in its final shape provided that the panel of jurors was to consist of senators, knights, and ex-presidents of the thirty-five districts (*tribuni aerarii*), one-third from each class. The new arrangement was a concession to the common people, and prevented an equestrian monopoly of the jury panel.

Pompeius and Crassus also caused censors to be elected, who expelled sixty-four senators. Among these were Gaius Antonius, whom Caesar had prosecuted without success, and P. Lentulus Sura, consul in 71. The Italians were now enrolled, and the number of citizens reported was about nine hundred thousand. This may indicate a free population of

from six to seven millions — about the same as that of the state of New York in 1900 A.D.

Thus the aristocratic consuls, who had helped to establish the constitution of Sulla, destroyed its most important aristocratic features — a result which the oligarchy richly deserved on account of its incompetence, remissness, and corruption. But they did not, and could not, identify themselves with the democratic party; hence they neither recalled the proscribed, nor removed the disqualifications of their children, nor reinstated those dispossessed of their property by the confiscations.

II. The Extraordinary Commands of Pompeius.

Alliance of the Oligarchy and the Knights. — Pompeius, who for a time had loomed up as the future master of Rome, resigned his consulship at the end of 70, and, declining a province, returned to private life. His retirement largely restored the political situation of the Marian epoch, but the democratic party was without a leader, and for the time being the knights were the chief gainers. Courted by the oligarchy and the democracy alike, they gradually allied themselves with the former — even wolves hunt in packs — and recovered their old influence over the senatorial government. During the rule of Sulla they seem to have been deprived of their fourteen rows of seats at the theatre. They now regained them by the Roscian law. This enactment was, as it were, a public announcement of the new compact of the two classes (*concordia ordinum*).

Laws of Gaius Cornelius. — Nevertheless, the oligarchic abuses soon incited democratic attacks. Before the dictatorship of Sulla the senate had claimed that in emergencies it had the power to grant a dispensation from a law, subject to a subsequent ratification by the people, but it had made no extensive use of this privilege. Afterward, however, it

conferred exemptions from various laws without any plea of necessity and without any proviso as to popular ratification. Gaius Cornelius, a tribune of 67, who at this time occupied a unique position as a real reformer, attempted to deprive the senate of this power, but succeeded only in establishing the rule that it should not concede any dispensation from a law unless at least two hundred senators were present, and that no one was to interpose a veto, if such a concession was submitted to the people for ratification or rejection. In other words, he practically conceded the principle, but expected to abolish "congressional evening sessions," so to speak. He carried another law ordering the praetors to administer justice according to the edicts which they issued before or on entering office (*edicta perpetua*). The notorious Verres and others had begun to shape the legal principles so as to accommodate their friends or purchasers.

All the other bills of Cornelius were defeated chiefly by means of tribunician intercession, but one led to the passage of the Calpurnian law on corrupt canvassing for office (*lex Calpurnia de ambitu*), which condemned those found guilty to pay a fine, and made them permanently ineligible to office. It also punished their accomplices (*divisores*).

The Pirates and Marcus Antonius. — Early in the same year another tribune, Aulus Gabinius, introduced a far more important measure in order to suppress piracy. For years pirates had flourished in the Mediterranean and in adjoining waters, and interfered not only with the pursuits of peace, but even with Roman military operations. In 74 the senate, it seems, appointed the praetor Marcus Antonius, the elder son of the orator, imperial admiral. He was to be limited to no particular province (that is, he had *imperium infinitum*). This new command became a necessity when the consuls were as a rule to be civil magistrates in Italy, and practically lost their former command-in-chief at sea.

Antonius was, however, a worthless admiral, was not properly furnished with money and ships, and accomplished nothing of importance, although he remained in command until 71. The pirates, on the other hand, ventured to land even at Brundisium, Misenum, and Ostia. They made the Appian Way unsafe, and captured the sister of the Roman admiral, and two praetors. They occupied at one time or another four hundred coast towns, and interfered so much with the importation of grain that Rome was threatened with a famine.

The Gabinian Law on the Command against the Pirates. — The remissness and incompetence of the government in this sphere were so patent that Gabinius understood that the oligarchy could make no effective resistance, and proposed that for a period of three years a man of consular rank should be given proconsular authority throughout the Mediterranean, and concurrent or superior powers (*imperium aequum* or *maius*) along its Roman coasts, including Italy, for forty-six miles inland (50 *millia passuum*). He was also to have power to appoint fifteen lieutenants, to equip two hundred ships, to levy soldiers and rowers within the limits set, and to draw on the public treasury to the extent of about $8,000,000. The bill was supported by the ex-quaestor Julius Caesar and by the democrats generally, but was bitterly opposed by the oligarchy, especially by Catulus and the eminent lawyer L. Hortensius. It was claimed that the new office was not a naval command, but practically an irresponsible monarchy. When on the day of voting a tribune used his veto, Gabinius proceeded to have him deposed from office, as Tiberius Gracchus removed Octavius (p. 162); then the veto was withdrawn and the bill passed.

Pompeius in Command against the Pirates. — Pompeius was thereupon chosen commander by the popular assembly,

and was at his own request allowed twenty-five lieutenants with praetorian powers and insignia (*legati pro praetore*), five hundred ships, and an army of one hundred and twenty-five thousand men.

The results surpassed even the expectations. Within three months he swept the pirates off the sea and ended the war. He came into conflict with other officials, as might be expected; and civil war was waged on a small scale in Crete, but in the disorganized condition of the Roman state such a trivial unpleasantness was overlooked.

The Manilian Law. — Before it became expedient or necessary for Pompeius to resign this command, an opportunity which he had long desired presented itself. L. Licinius Lucullus, consul in 74, had in the war against Mithridates and Tigranes performed some of the most brilliant exploits in Roman military annals; but through his rashness, the insubordination of his troops, and lack of support from Rome, he finally lost all his conquests. Early in 67, before there was any sufficient reason for the change, Gabinius carried a law ordering the consul Manlius Acilius Glabrio at once to take charge of Bithynia and Pontus as his province; and two of the legions of Lucullus were to be discharged from service. Lucullus could then do nothing, Glabrio was incompetent, and the province of Asia seemed endangered. Thereupon the tribune Gaius Manilius proposed in 66 that, in addition to his present authority, Pompeius should have charge of the three provinces of Asia, Bithynia with Pontus, and Cilicia, that he should be intrusted with the command in the war against Mithridates and Tigranes, and have the power to declare war and to conclude treaties of peace and alliance. Catulus and the strict oligarchs opposed the bill as being incompatible with republican principles. Other eminent men advocated it, — for example, Marcus Cicero, now a popular praetor and the leader of the Roman

bar. Caesar and the democrats also supported it, perhaps not of their own free will, as the power of Pompeius was already endangering the success of the democratic party. No one dared to intercede, and the bill passed almost unanimously.

Nature of the Extraordinary Military Commands. — The tendency toward monarchy is one of the salient characteristics of the fourth period, and is manifest, not only in democratic, but also in oligarchic, measures. It was the oligarchy which gave Antonius general command at sea (*imperium infinitum*), which placed Lucullus in charge of more than one province, which conferred supreme authority (*imperium*) on the private knight Pompeius — acts that were contrary to the republican constitution and dangerous to its existence. The democracy followed these precedents, and furnished the model for the Roman monarchy. In other words, the distinctive features of the naval and military commands established by the Gabinian and Manilian laws, — the abolition of the collegiate and annual tenure, the appointment of praetorian lieutenants, the combination of provinces, the general command at sea, and the concurrent or superior powers in the coast regions, — formed some of the leading principles of the Roman empire under Augustus. The real nature of these measures was abundantly shown by Catulus and others; but the people considered simply their immediate economic interests, and the comprehension of republican principles was already so imperfect that the moderate aristocrats, like Cicero, now readily supported the Manilian law, and later bewailed the loss of liberty and the establishment of a monarchy. On the other hand, the brilliant results achieved by Pompeius seemed to justify the democratic policy, and tended to reconcile the people in general to the preëminence, if not the rule, of one man.

III. The Catilinarian Conspiracies.

Political Prosecutions. — By the Gabinian and Manilian laws the democrats had for the time being not only introduced a great constitutional change, but had also set aside the senatorial government in regard to the most important public affairs. During the absence of Pompeius in the East they attempted to follow up their victories. They again had recourse to the old method of using the judicial tribunals for partisan purposes, but without success.

The aristocrats, on the other hand, secured the condemnation of Gaius Licinius Macer, tribune in 73. He was tried in the court for cases of extortion (*quaestio repetundarum*), over which Cicero, praetor in 66, presided. Manilius was arraigned before the same court, but it was broken up by force on the last of December, 66.

The First Catilinarian Conspiracy. — The resort to open violence indicated the existence of a conspiracy and confirmed the rumors that were spreading. The leader was Lucius Sergius Catilina, a man notorious even in those times for his dissolute character and his horrible villainies, but possessed of ability and personal magnetism. After filling the praetorship, he had governed the province of Africa and wished in 66 to be a candidate for the consulship; but he was excluded by the consul in charge of the election, because he was threatened with an action for extortion. He then conspired with P. Autronius Paetus and probably also with P. Cornelius Sulla, who had been elected consuls for 65, but were convicted of electoral bribery (*ambitus*). Thereupon their competitors and prosecutors, L. Aurelius Cotta and L. Manlius Torquatus, were chosen consuls for 65. Gnaeus Calpurnius Piso, L. Vargunteius, Gaius Cornelius Cethegus, and a number of others belonged to the conspiracy. They intended to murder the consuls on January 1, proclaim

Sulla and Paetus consuls, and send Piso with an army to Spain. But the consuls received a guard, and the assassination was prevented. The conspirators then decided to massacre the consuls and a number of others on February 5. This time Catiline gave too early the signal agreed upon, and defeated the project.

According to Suetonius, the real authors and leaders of the conspiracy were Crassus and Caesar, who were to become respectively dictator and master of horse. While this statement is not sufficiently attested, it corresponds to their known actions, as they shielded and supported the leading conspirators, and were ready to use them as tools against the oligarchy and eventually against Pompeius.

Projects of Crassus and Caesar. — The democrats were, to be sure, indebted to Pompeius for their important victories, but could scarcely be satisfied with this lieutenant and henchman of Sulla as their chief, and probably viewed with anxiety the time of his return, when he would have an excellent opportunity to become the lord of Rome. The commander of the sea and the East, with his extraordinary powers, could be ousted only by another military command in Spain, Egypt, or elsewhere. To create such a rival power was probably the principal democratic aim under the leadership of Caesar and Crassus. Success in the ordinary way was precluded by the influence of the oligarchy on the consular elections. The conspiracy also had failed, and other expedients were necessary. Accordingly, Crassus seems to have induced the senate to send Piso, now a quaestor with praetorian powers (*quaestor pro praetore*), to hither Spain, where he might become a useful tool against Pompeius. As one of the censors of 65, moreover, Crassus attempted to enroll Egypt and Cyprus in the list of Roman domains. A plebiscite was prepared which decreed that Caesar, now a curule aedile, should next year make Egypt a Roman province.

This project was defeated by Catulus, the colleague of Crassus; and then both censors resigned their office.

Caesar's Vindication of Marius and Cinna. — Caesar, who as aedile delighted the democracy by his magnificent games, desired for personal and party reasons to vindicate the democracy of the past. As early as the year 68 he had dared to eulogize Marius and Cinna in the funeral orations which he delivered in honor of his aunt Julia, the widow of Marius, and of his wife Cornelia, the daughter of Cinna. He now ventured to take the illegal, but very popular, step of restoring the trophies and the statue of Marius on the Capitol.

In 65, Marcus Porcius Cato, a great-grandson of the censor and a stanch oligarch, was a quaestor, and collected the money paid as rewards to executioners of the victims of Sulla. The next year Caesar, as an ex-aedile, presided in a section of the special court for cases of homicide (*quaestio de sicariis et veneficis*), and it was probably he who drew the logical conclusion from Cato's action and caused several of these executioners to be accused of murder. In spite of the laws of Sulla, he secured the condemnation of a notorious centurion and of Catiline's uncle.

The Prosecution of Catiline. — The vindication of the past was simply an episode in the struggles of the present. As might be expected, the reward of Piso did not deter Catiline from entering into new schemes, and apparently no precautionary measures were adopted by the government. In the course of 65 Catiline was tried on the charge of provincial extortion, but bribed his prosecutor P. Clodius Pulcher and a sufficient number of jurors, and was acquitted, though manifestly guilty. It is characteristic of the times that the consul Torquatus assisted him, and that Cicero undertook to defend him, though prevented from keeping his engage-

ment. The prosecution at any rate hindered Catiline from being a consular candidate in 65.

The Consular Campaign and Election in 64. — Finally, in 64, Catiline, nothing daunted, became in due form a candidate for the consulship. There were two other candidates of importance — Gaius Antonius and Cicero. The former was a younger son of the orator, had been expelled from the senate in 70, and was praetor for the second time in 66. He was an insignificant man in great financial straits, whom the conspirators expected to make use of as a tool. Cicero was now the most brilliant and successful advocate and orator of Rome, and was very popular. He had, however, been a political trimmer, and — what was worse — he was a man without illustrious ancestry. From the aristocratic point of view this was a greater objection than the utter depravity and the crimes of Catiline, redeemed as they were by his patrician blood. Catiline and Antonius combined to defeat Cicero by all means, fair or foul, and were supported by Crassus and Caesar. Their prospects were excellent. The present aim of the conspirators was to seize the government through the consular powers, and to begin war against Pompeius in Italy and elsewhere. Aid was to be furnished by Piso in Spain and by others. But the rumors of the first conspiracy and of the present schemes spread, and Catiline and Antonius went beyond all bounds in bribery and in preparing to use force. The result was that the oligarchic party, for the sake of personal and public safety, supported Cicero, who was elected unanimously. Antonius, receiving a few more votes than Catiline, became his colleague.

Somewhat later Catiline, who had been perhaps the chief executioner during the proscriptions of Sulla, was prosecuted on the charge of murder; this was probably a shrewd counter move against Caesar. But he was considered too

useful a man to lose, and his acquittal was secured in spite of his notorious guilt and the precedents recently established.

Agrarian Law of Rullus. — Meanwhile Pompeius was rapidly settling affairs in the East and might soon appear in Egypt. If the democrats were to anticipate him, they could not defer action. Accordingly, during the last days of 64, P. Servilius Rullus, a member of the democratic party, and other new tribunes proposed a comprehensive agrarian law (*lex Servilia agraria*). It was the first attempt of the kind since the Livian law of 91, and was probably inspired by Caesar. The public lands assigned or even illegally occupied after 82 were to become the property of the present possessors, and the Campanian lands (*ager Campanus* and *campus Stellatis*) were reserved for colonization. All the other public lands in Italy and, with various exceptions, in Sicily, Asia, Macedonia, Spain, and Africa, — in particular all the public lands and other public property acquired since 88, — were to be sold. The remaining public lands in the provinces were as a rule to pay a high rent. By means of the money realized in this way and from the new Asiatic revenues secured after 63, suitable lands were, with the consent of the owners, to be bought in Italy, and to be assigned in inalienable parcels to the poor citizens.

Ten commissioners elected by seventeen districts for five years were to have charge of the execution of the law. They were to have praetorian powers and full authority to decide what domains were public, to sell, or to impose taxes on, the public lands, to buy land, and to establish colonies.

Aim and Fate of the Law. — The bill was simply an extravagant bid for political support, and its very liberality indicated the straits to which the democrats were reduced. It was designed to give Caesar and his associates an extraordinary position approximating that of Pompeius, who would be

prevented from becoming a commissioner by the requirement that the candidates should in person announce their candidacy. Under the cover of this law Caesar would, moreover, have an opportunity to execute his scheme respecting Egypt.

The aims of the bill were plain enough; hence it was supported by Antonius, and was opposed by Cicero, both in the senate and before the people. The urban multitude were not interested in such legislation and were unwilling to oppose Pompeius. As a consequence the democrats seem to have dropped the bill.

Prosecution of Rabirius. — Another political move of the democrats met with but scant success. The ancient criminal jurisdiction of the people had not been formally abolished, but had in the main been superseded by the special courts for cases of high treason (*quaestio maiestatis*) and homicide (*de sicariis et veneficis*). To revive it would have been an absurd, but truly democratic, measure. Through the tribune T. Atius Labienus, Caesar secured, as it seems, the passage of a law under which he and his cousin, the ex-consul L. Julius Caesar, were appointed a commission of two (*duoviri perduellionis*) for trying Gaius Rabirius on a charge of high treason. Rabirius was probably innocent, but had boasted of having killed the tribune Lucius Saturninus, some thirty-six years before (pp. 184–185). Caesar, to whom the function of prosecutor fell by lot, sentenced him to death by crucifixion. Rabirius appealed, but would probably have been condemned by the centuriate assembly, if the praetor Q. Metellus Celer had not, according to an agreement with Cicero, removed the red flag (*vexillum*) displayed on the Janiculum, and in accordance with ancient usage thereby caused the assembly to be dissolved.

Labienus then prosecuted Rabirius in a suit involving, if successful, the imposition of a fine. But Cicero defended him, and he escaped. Perhaps Caesar in this case intended to revive the right of appeal and the inviolability of the tribunes,

and to declare illegal those extraordinary powers which the senate conferred in critical times by proclaiming martial law.

Caesar Elected Chief Pontiff. — Caesar attempted also to make the children of those proscribed by Sulla eligible to office. This seemed to be a reasonable concession when the executioners of the proscribed could be prosecuted for murder (p. 224). The conservative Cicero opposed the measure, and it failed.

It was probably Caesar who caused Labienus to propose and carry a law (*lex Atia de sacerdotiis*) restoring the quasi-popular election of the members of the four chief priestly colleges (p. 180). Partly in consequence of this popular change, he defeated Catulus, the leader of the oligarchy, at the polls, and was elected chief pontiff — a position of considerable political importance even yet, and of great value to him personally.

Second Catilinarian Conspiracy. — When Catiline, who was sinking deeper and deeper into debt, had been defeated at the consular election in 64, he seems once more to have decided to accomplish his aims, if necessary, by a revolution. The conditions were favorable. There was no army in Italy, no effective police in the city, the senate was negligent and weak, and Pompeius was in the far East. There was a large number of discontented, corrupt, pernicious, and dangerous persons who were likely to support a conspiracy (*cf.* pp. 213–214).

Besides his former accomplices, Cethegus, Paetus, and Vargunteius, Catiline was now joined by P. Cornelius Lentulus Sura, who had been consul in 71, had been expelled from the senate in 70, and was now praetor elect for 63; by the former praetor, L. Cassius Longinus, by L. Statilius, P. Gabinius Capito, M. Caeparius, and others of different classes. Catiline promised his fellow conspirators to proscribe the rich, distribute public lands, cancel debts, and to give them offices,

priesthoods, and opportunities for robbery. He expected aid from Piso in Spain, and P. Sittius in Mauretania, but the former was slain and the latter proved untrustworthy.

Consular Election in 63. — In the first place Catiline directed his henchmen to support him with might and main in his renewed canvass for the consulship. He intended to remove Cicero by assassination and to make a tool of Antonius. But Cicero proved to be shrewd, courageous, and energetic, and was fully a match for his lawless enemy. He induced Antonius to keep aloof from the conspirators by promising him the rich province of Macedonia, and through one of the conspirators he secured prompt information about all the movements and projects of the conspiracy. As a result of the request of Servius Sulpicius Rufus, the greatest jurist of his time, and now one of the consular candidates, Cicero and Antonius carried a more severe law on corrupt canvassing (*lex Tullia de ambitu*). Catiline was not discouraged, however, and decided to murder the other candidates and Cicero on the day of the election. Although Cicero received no satisfactory support from the senate, he provided for his own safety and baffled the efforts of the conspirators. Catiline again failed to secure an election.

Outbreak of the Insurrection. — After the election, which perhaps did not occur much later than usual, Catiline prepared for open revolt. He sent agents throughout Italy, and made Faesulae the centre of military operations. He placed Gaius Manlius, a former centurion of Sulla, in charge there, to collect soldiers and arms, and ordered him to raise the standard of the insurrection on October 27. On the 28th, he intended to massacre Cicero and the principal men of the nobility. Cicero, who was fully informed of these preparations, convened the senate on October 21, and obtained for the consuls extraordinary powers (through a *senatus consultum*

ultimum) to maintain the public peace. By his watchfulness he prevented the conspirators from accomplishing anything on October 28; but soon the report came that Manlius had raised his standard, as directed, and that he demanded, in particular, relief for the debtors. In Capua and Apulia, moreover, the slaves were turbulent. The senate then decreed extensive precautionary measures; Catiline himself was arraigned on the charge of sedition (*de vi*), but remained as haughty and insolent as ever. Nevertheless, being thwarted everywhere by Cicero, he concluded to leave Rome and bring matters to a speedy issue. When he had assigned the work of murder and incendiarism to the conspirators that were to remain, and another attempt to assassinate Cicero had failed, he left early in November for Faesulae. Somewhat later it was reported that he had assumed the fasces and other insignia of supreme power. The senate thereupon declared him and Manlius public enemies.

Execution of Five Conspirators. — The open revolt was confined to Etruria, and its success depended on the conspirators in the city. Their plan was to assert that Cicero was responsible for the war, to set fire to the city in twelve places, to murder Cicero and a great number of others, and then to rush out and unite with Catiline, who in the meantime was to approach the city. But the leader, Lentulus, — precedence of rank was observed even by the conspirators, — was incompetent and slow, and the late date of December 19 was set for the massacre. Though informed of the plot, Cicero did not venture to take any decisive step until he had tangible evidence. The imprudent Lentulus, Cethegus, and Statilius furnished this by giving letters to ambassadors of the Allobroges, and Lentulus gave also a letter to T. Volturcius — all of which Cicero secured on December 3. These three, together with Gabinius and Caeparius, were then arrested and their guilt was proven. Cicero was extolled

to the skies, and a thanksgiving (*supplicatio*) was decreed in his honor. Next day the rumor spread that a movement was on foot to free the prisoners by force. On December 5 Cicero consulted the senate as to the fate of those imprisoned, and it was resolved that they, and four others when apprehended, should be executed. Caesar, now praetor elect, made an impressive speech against capital punishment, Cicero another in favor of it; but the tribune elect, M. Cato, through his courage and force decided the issue. The prisoners were forthwith conducted to the Tullianum, and strangled.

Legality of the Execution. — In the times of the Gracchi the oligarchy had introduced, and always stoutly maintained, the constitutional theory that the senate had the authority to confer quasi-dictatorial powers also in the emergencies of party strife and sedition. The senate had exercised this authority in at least two instances (pp. 175, 185), and continued to employ it in spite of the Clodian law of 58 (pp. 239–240). The democrats had usually opposed the theory, but had never been able permanently to set it aside, and Caesar and his followers seem to have admitted its validity. Cicero, accordingly, had by virtue of the extreme and final decree (*senatus consultum ultimum*) the power to disregard the right of appeal and execute the conspirators. The resolution of December 5 furnished, however, simply moral support to the weak consul and formed a pledge of future assistance.

Suppression of the Insurrection. — Early in 62, Catiline and the rest of his band — about three thousand men — were killed in a battle near Pistoria. In the course of the year various conspirators were prosecuted, and nearly all of them were condemned or went beforehand into exile. Caesar and Crassus, though reported to be accomplices, were not put on trial.

CHAPTER V.

THE FIRST TRIUMVIRATE AND THE CONFERENCE AT LUCA, 62–52 B.C.

I. The First Triumvirate and the First Consulship of Caesar.

Political Position of Pompeius. — When the victorious progress of Pompeius in the East was reported at Rome, the democrats, by a law advocated by Caesar, conferred extraordinary honors on him, and the senate, under the leadership of Cicero, decreed in his honor a thanksgiving festival (*supplicatio*) of unprecedented length.

Pompeius had now, as in 71, a fair opportunity to make himself the lord of Rome. It was, or ought to have been, evident that the purely civil government of the senate was no longer able to keep in check the turbulent elements in Italy, especially the city rabble. A military ruler was likely, at any rate, to secure peace and safety; and freedom was merely a name when laws, elections, and lawsuits were so often decided by force, bribery, or intrigue. Pompeius had the treasures, the army, and the military renown which might be deemed requisite for the master of the Roman world, and he seemed ready to take the preparatory steps.

Mission of Metellus Nepos. — The tribune Q. Caecilius Metellus Nepos proposed that Pompeius should be permitted to become a candidate for the consulship, though absent, which was now contrary to law. But he met with no success. He failed also when he submitted a bill

recalling Pompeius immediately from Asia to protect Italy against Catiline. On this occasion he disregarded the intercession of Cato and another colleague, who in return infringed on his inviolability. Excitement ran high and martial law was declared. Metellus and Caesar, who had supported him, were suspended from office. The former thereupon went to Pompeius, although it was illegal for him to leave the city.

Return and Retirement of Pompeius. — Pompeius had every reason to believe that the oligarchy was unfriendly to him; and, in view of the fact that political phrases are so potent, he might have seized the excellent opportunity to pose as the defender of the right of appeal and especially of tribunician inviolability. He was, however, not enough of a politician for this, and he probably deceived himself, both in regard to the stability of the republic, that is, of the oligarchy, and in regard to his own influence. He was not willing to wage civil war for the sake of his own aggrandizement, and so he delayed.

In the meantime the oligarchy strengthened its position. The Catilinarian insurrection had been suppressed, and an attempt was made to win even the support of the rabble, which dominated the public meetings (*contiones*). On the proposal of Cato the number of those entitled to share in the distribution of grain was increased to such an extent as to involve an additional expense of about $1,650,000 annually.

Nevertheless, the oligarchy seemed to be no match for the victorious general, and everybody expected him to seize the helm of state. But on arriving at Brundisium he promptly disbanded his army, and thereby revolutionized the political situation. He might have entered Rome as a dictator or king; he came simply as a general awaiting a triumph and the position of leading senator.

Political Failure of Pompeius. — Pompeius found it advisable to request only that the senate should ratify his arrangements in the East as a whole, and that provision be made for his veterans. He avoided everything that might offend the oligarchy, and tried to ally himself with Cato, but was repelled. For a time his demands were not considered. In the beginning of 60 the senate, influenced by L. Lucullus and others, rejected the first demand and decided that each of his ordinances should be discussed and voted upon separately. This was likely to involve the modification, if not the repeal, of a number of them. Nor did the senate agree to a distribution of land to his veterans. Pompeius then turned to the people and caused a tribune to introduce an agrarian bill. But he lacked political skill and was too vacillating, and his agents were incompetent. The bill met with bitter opposition, and was abandoned.

Political Mistakes of the Oligarchy. — By their short-sightedness and untimely opposition the aristocrats humiliated and alienated the distinguished general, and in fact spurred him on to join their enemies. They also weakened their own position. Through the influence of Cato, the senate made an unsuccessful attempt to bring corrupt jurymen to justice. The thrifty knights highly resented this. Moreover, Crassus encouraged the farmers of certain Asiatic revenues to petition the senate to cancel their contracts because of their losses. But this was not granted. Thus disappeared the mercenary concord of the senate and the knights, on which senatorial supremacy and the existence of the republic depended.

The Rise of Caesar. — Caesar, the recognized leader of the democracy, quickly grasped the political situation and profited by it. He had soon been reinstated as praetor,

and was so lucky as to obtain farther Spain as a province. Here he found pretexts for waging war, and distinguished himself both as a general and as an administrator. He paid his colossal debts and enriched himself and his soldiers. On his return to Rome in 60 he intended to secure a triumph, but promptly relinquished this design, as it hindered his candidacy for the consulate.

The First Triumvirate. — Taught by several failures in the past, Caesar now tried to unite all the elements opposed to the oligarchy, and thus to insure his own election and the execution of his other plans. He succeeded in concluding an agreement with Pompeius and Crassus that they should mutually assist one another and allow nothing to be done which was objectionable to any of the three. Caesar was to receive the consulate for 59 and the province of cisalpine Gaul for five years. Pompeius was to secure the ratification of his eastern ordinances, lands for his soldiers, and an extraordinary position as an agrarian commissioner. Crassus was also to become a commissioner, and, together with Pompeius, to attain a second consulship in due time.

This private and originally secret combination, or conspiracy, of the most renowned general of Rome, her richest man, and her most adroit politician as well as the greatest statesman of this epoch, was practically a revolution, and controlled Roman politics almost down to the outbreak of civil war. The triumvirate formed a new executive, which in reality superseded the senatorial government in the chief affairs of state. This was no doubt Caesar's fundamental aim.

Caesar was elected consul; but the oligarchy, by means of extraordinary bribery, gave him as a colleague Marcus Bibulus, a firm and obstinate oligarch and Caesar's enemy.

The Agrarian Law of Caesar. — Caesar expected opposition, and provided for the official publication of the proceedings of the senate and the popular assemblies. In this way he could to a large extent prevent the diffusion of reports prejudicial to him, and subject the oligarchy to the pressure of public opinion. At first he was very considerate and moderate, and succeeded in placing his opponents in an unfavorable position.

He first laid an agrarian bill before the senate. The public domain in Italy, with the exception chiefly of the Campanian fields, was to be distributed among the poor citizens, including naturally the veterans of Pompeius. As this land was wholly insufficient for the purpose, other lands were, with the consent of the owners or possessors, to be bought at their assessed value. A commission of twenty, of which Caesar did not wish to be a member, was to execute the law.

Passage and Execution of the Law. — When Caesar did not succeed in obtaining the consent of the senate, who suspected his purpose, he declared that he would appeal to the decision of the people. During the rest of his consulship he ignored the senate in legislative affairs. He caused Pompeius and Crassus to declare publicly their approval of the bill. Pompeius even affirmed that, if necessary, he would protect it by force of arms. But the oligarchy did not desist from its opposition. Bibulus and some tribunes observed the heavens every day, reported unfavorable omens, and thus delayed the enactment of the bill (*cf.* p. 141). When on the final day of voting Bibulus came to intercede, he was thrown down, his fasces were broken to pieces, and the tribunes who accompanied him were also maltreated. They were then removed from the assembly, and the bill was passed. It was probably the first consular law ever enacted without the consent of the sen-

ate, enacted, moreover, practically in violation of tribunician and collegiate intercession. Nevertheless, the senate did not dare to cancel it. Pompeius and Crassus were elected commissioners, also the great scholar, M. Terentius Varro.

A second agrarian bill, no doubt contemplated from the first, intrusted the same commission with the distribution of the Campanian and Stellatine fields. This rich district, one of the finest in Italy, became once more private property, and Capua obtained the rights of a Roman colony. This was eminently just, and incidentally a reassertion of democratic policy (p. 198). Provision was thus made for twenty thousand citizens.

Withdrawal of Bibulus. — After his recent experiences, Bibulus remained in his house during the rest of the year, merely issuing edicts and announcing that he observed the heavens (*de caelo servare*) — which ought, however, to have been reported personally. He hoped thus to invalidate all the acts of Caesar. The jokers described the situation by saying that Gaius and Julius were the consuls of the year.

Consolidation of the Triumvirate. — Caesar faithfully carried out the other measures desired by his confederates. He secured by law the remission of one-third of the sums payable by the farmers of the Asiatic revenues, and thereby won the support of the knights. By another law he obtained the confirmation of the ordinances of Pompeius in the East.

Caesar, with his personal charm, soon converted the political combination with Pompeius into an alliance of friendship; and, in order to strengthen it, gave him his only daughter, Julia, in marriage. This was, so to speak, a

public announcement, as well as a pledge, of the joint rule of the triumvirate.

Caesar's Law regarding Extortion. — Caesar carried through various other laws. A very comprehensive, carefully drawn, and more severe law concerning extortion (*lex Julia de pecuniis repetundis*) prohibited a governor from leaving his province and from waging war on his own responsibility, and contained various provisions favorable to the provincials. Another Julian law recognized Ptolemaeus Auletes as king of Egypt. Like a modern monopolist, the king had to pay the corrupt triumvirs a high price for his privileges. One of Caesar's creatures, the tribune P. Vatinius, secured the enactment of several laws of this kind.

Caesar Governor of the Gallic Provinces. — In place of the insignificant province which the senate had destined for him, Caesar caused Vatinius to propose that cisalpine Gaul, together with Illyricum, should be assigned him as a province for five years from March 1, 59. The bill passed (*lex Vatinia de provincia Caesaris*). Caesar was to have three legions, and to appoint his own lieutenants, who were to have praetorian rank (*legati pro praetore*). The senate, probably on the motion of Pompeius, added the province of Narbo, with one legion.

The military power had repeatedly controlled or overthrown the civil government during this century, and it was manifest that he who would rule must have the support of legions. With his army Caesar could, for the next five years, dominate Rome and Italy, where no troops were to be stationed. As Cato expressed it, he had gained possession of the citadel. With the aid of his confederates he had paralyzed the senatorial government, set aside the vital principles of collegiate and annual tenure, and laid the foundation of the Roman empire.

II. The Rule of the Triumvirate.

The Chief Laws of Clodius. — P. Clodius Pulcher, whom Caesar had helped to secure adoption into a plebeian family, was elected tribune for 58. He was a talented, but morally and politically unprincipled, demagogue, and was selected by the triumvirate to lead in the attack on the oligarchy and its leaders. On entering office he published, and soon carried, four laws to prepare the way. The first enacted that the monthly allowance of grain should be given away for nothing. This was a very popular measure, and according to a subsequent enactment all the poor citizens were entitled to share in the distribution. The second law increased the number of days on which bills could be voted upon, and in particular abolished the religious veto (*obnuntiatio*, p. 141). A third law reëstablished the religious, or rather political, clubs (*collegia*), which had been prohibited by the senate. By this and the first law Clodius practically provided for the sustenance and discipline of the city rabble. The fourth law decreed that the censors should not omit any one from the senatorial roll, or degrade any one, without a formal trial and a unanimous sentence. This limitation tended to destroy the censorship, which was already falling into disuse; but the law was soon repealed.

Banishment of Cicero. — Clodius was now prepared to rid the triumvirate of Cicero and Cato, who were the chief men of the oligarchy, the former on account of his eloquence, the latter on account of his integrity and sturdy republicanism. Caesar had sought to win Cicero and had in vain offered him the position of agrarian commissioner, of ambassador, and of lieutenant (*legatus*). Clodius, who was Cicero's bitter enemy, was then given the congenial task of disposing of him. It is noteworthy that he did not prosecute Cicero

under the existing laws, but secured the passage of a law made for the occasion: that every magistrate who should execute, or had executed, a Roman citizen without appeal, or due process of law, should be punished with banishment (*aquae et ignis interdictio*). This enactment was apparently only a renewal of the Sempronian law and was quite popular. As Clodius used force in the preliminary meetings and was supported by the triumvirs and the consuls, Cicero knew what to expect, and left Rome before the day of voting.

To prevent his return, Clodius carried a second law providing that, inasmuch as Cicero, by virtue of a forged decree of the senate, had executed Roman citizens without due process of law, he should be banished to a distance of at least 368 miles from Rome (400 *millia passuum*) — an amendment increased the distance — and that his property be confiscated. The first enactment was practically, and the second also formally, special legislation against a particular individual (*privilegium*), and accordingly contrary to one of the fundamental principles of Roman law.

Relegation of Cato. — Clodius had no such popular and plausible charge to make against Cato, and therefore proposed that the island of Cyprus be annexed, and that the property of the reigning king, who had been too miserly to buy off the triumvirs, should be confiscated. By another law Cato was intrusted with the execution of this scheme. It was sarcastically intimated that a person of such abnormal honesty was just the man to handle so much money. He obtained the rank of a quaestor with praetorian powers. In this way Cato, the opponent of all extraordinary commands, was forced to accept one himself and to leave Rome. Caesar congratulated Clodius on his success.

Strife between Clodius and Pompeius. — When Cicero had departed, Caesar also left Rome for his provinces, in the

spring of 58. The controlling power being out of the way, Clodius, who had so far been the audacious agent of the triumvirate, saw that with his bands he was the lord of the streets of the capital, and he decided to break a lance on his own account. He began to attack some of the eastern arrangements of Pompeius. To retaliate, Pompeius favored the recall of Cicero. But a bill to this effect, proposed in June, could not be put to vote on account of the street fights. The elections for 57 were not favorable to Clodius, and so he plotted to assassinate Pompeius. Failing in this, he caused his bands to besiege the house of Pompeius, and, to increase the confusion, began to agitate for the repeal of the laws of Caesar. His influence was, however, on the wane. Nevertheless, in January, 57, the passage of another bill for Cicero's recall was prevented by violence and bloodshed. To use force in return, the tribune T. Annius Milo, according to an agreement with Pompeius, hired a band of gladiators. P. Sestius, another tribune of the same party, followed his example. Then several months elapsed amidst street fights and violent harangues to the rabble, until Milo gained the upper hand.

Recall of Cicero. — At a meeting of the senate in July, 57, Pompeius delivered a magnificent eulogy on Cicero and in favor of his recall. He was supported by four hundred and sixteen senators, Clodius alone voting in the negative. Accordingly, on August 4, the centuriate assembly, which was now attended by an unusual number of citizens from the Italian towns and was protected by the armed bands of Milo, enacted a law recalling Cicero and restoring his property. Cicero's journey from Brundisium on his return resembled a triumphal procession, and his reception at Rome was very brilliant.

The agitation for the recall of Cicero and the demonstration on his return were not due to his popularity exclusively,

but were significant of the partial recovery of the oligarchy after the intimidation by Caesar, and the revival of the republican spirit in Italy.

The Victories of Caesar. — Pompeius could control neither the oligarchy nor Clodius. While he thus proved incompetent to perform his part and was placed in a painful and ridiculous position by a turbulent demagogue, Caesar had turned out to be a genius in war as well as in politics. In violation of constitutional principles and his own law on extortion (p. 238), he had waged war on his own responsibility and carried the Roman eagles within two years to the Rhine and the English Channel. He had conquered the Gauls, the enemies of Rome from time immemorial, and had defeated a host of Germans, the terror of Rome in the recent time of the Teutons and Cimbri. He was the hero of the hour, and the commander of eight legions — the most powerful army in the Roman state. In view of his victories a thanksgiving festival of the unprecedented length of fifteen days was voted in his honor soon after the return of Cicero.

Pompeius Seeks an Extraordinary Command. — Pompeius and Caesar had practically exchanged positions, and the former adopted the tactics of the latter in the sixties. He sought an extraordinary command in order to balance the military power of his rival and possible adversary. An excellent opportunity presented itself now, just as had been the case before the enactment of the Gabinian law. The price of grain was high, the people demanded relief, and public opinion pointed to Pompeius as the proper man to obtain it. Accordingly a tribunician bill (*rogatio Messia*), framed in accordance with his wishes, proposed to grant to Pompeius for five years not only the superintendence of the grain supply (*cura annonae*) throughout the state, but also

an unlimited right to dispose of the public funds, a new fleet, the levy of an army, and an authority everywhere superior to that of the provincial governors (*imperium infinitum maius*). This proposal was withdrawn, partly on account of the opposition of Crassus, but chiefly because of the timidity and vacillation of Pompeius himself.

New Proconsular Magistracy of Pompeius. — In place of the tribunician measure a consular bill (*rogatio Cornelia Caecilia*) was passed by the popular assembly, conferring only the superintendence of the grain supply and proconsular authority throughout Roman territory for five years. Pompeius thus obtained again an extraordinary magistracy, though not the one desired.

It was a unique arrangement to intrust a proconsular magistrate with a branch of the urban administration, and to permit him freely to enter the city. The magistracy itself, as well as its term, was in principle a decided advance toward the military monarchy, of which its duties early formed an important part.

As long as Pompeius did not have an army, his proconsular power was largely an empty honor. Another chance to secure what he wanted soon presented itself. Ptolemaeus Auletes had been expelled from Egypt by his subjects and came to Rome in 57. He expected help from Pompeius and Caesar, whom he had paid so well (p. 238). Pompeius desired to restore him; but, so far from openly pushing his own claims, he pretended to favor one of the consuls. As a result neither a senatorial decree nor any bill was passed in his favor. With the elaborate system of religious and political checks, nothing in fact could be carried in a constitutional way against a somewhat courageous opposition. Moreover, he was bitterly attacked both before the people and in the senate, and he was on unfriendly terms with Crassus.

Brief Revival of the Oligarchy. — The oligarchy readily considered these and other repulses of Pompeius alone as the defeats of the triumvirate, and in the spring of 56 began to make a move against the triumvirs. Incidentally Cicero made a savage attack on Vatinius; and early in April, as the spokesman of the oligarchy, he proposed, and the senate voted, to consider on May 15 the legality of the distribution of the Campanian domain. This was a declaration of political war, and the next step was likely to be the recall of Caesar. The oligarchy committed at an inopportune time the old mistake, and compelled the slow, comparatively loyal, and politically incapable Pompeius to combine once more with Caesar, who had no regard for law and possessed great political astuteness and marvelous energy.

III. The Conference at Luca, the Second Consulship of Pompeius and Crassus, and the Reign of Anarchy.

Conference at Luca. — Caesar watched the progress of events in the capital from as near a point of view as circumstances allowed, and stayed about this time at Luca, where quite a number of magistrates and some two hundred senators assembled — a sort of monarchical senate. In April, 56, he held a secret conference with Pompeius and Crassus. He reconciled them and agreed to a plan of joint action for another five years. Pompeius and Crassus were to obtain the consulship for 55. For the next five years (54-50) they were to receive respectively Spain and Syria as provinces, with suitable equipment in troops and money. In return they were to secure an extension of Caesar's term for five years from March 1, 54; and it was probably understood that according to Sulla's arrangement Caesar was not to be superseded until January, 48, in order that he might attain the

consulship for that year while still in command. Crassus undertook to keep Clodius in check; and Pompeius, Cicero.

Caesar's Motives for Continuing the Triumvirate. — Caesar thus conceded to his confederates the provinces which next to his own were the most important from the military point of view. He surrendered his superior position as the only commander of a large army, and granted the military power which Pompeius desired. Still he retained the greatest army and the most central position. When Pompeius went to Spain, Caesar would be between him and the capital, and much nearer the scene of political action; Luca, for example, was only about one hundred and sixty-five miles distant from Rome. He had also a counterpoise to Pompeius in his old ally, Crassus. While the triumvirate lasted, party strife was likely to be less violent, but little force was needed to restrain the oligarchy, and he was probably sure of the real leadership on account of the political mediocrity and want of initiative of his associates. Nor did he necessarily contemplate a single executive at the head of the new government. In any case he had not completed the subjugation of Gaul, and he was scarcely as yet sufficiently the master of his eight legions to begin civil war without any plausible cause.

Submission of the Aristocracy. — The majority of the aristocrats, including Cicero, promptly submitted to the triumvirs. The senate decreed that the pay of the four legions which Caesar had levied on his own responsibility should be defrayed by the public treasury. It was considerate of the corrupt senators whom he had bribed, to reimburse him. Naturally, he retained his provinces.

With the assistance of two tribunes, Pompeius and Crassus prevented the holding of the consular election in 56, and the next year began with an interregnum. On the day

of the election, their only competitor was deterred from his useless candidacy, because his torchbearer was killed and Cato was wounded. The two triumvirs were then elected by the help of soldiers, who according to agreement had come from Caesar's army in charge of the son of Crassus.

Second Consulship of Pompeius and Crassus. — Through extensive bribery and fraud, Pompeius and Crassus defeated Cato, who was a candidate for the praetorship, and secured the election of Vatinius and other henchmen of theirs. By a plebiscite, Pompeius obtained the two Spanish provinces and Crassus was given Syria for five years, with the authority to declare war. They next carried a law extending Caesar's governorship in the Gallic provinces and Illyricum for five years. This assignment of the chief provinces of the state was evidently incompatible with the existence of the republic.

By another law Pompeius raised the property qualifications of the third class of jurors and attempted to make the selection of the jury panel less arbitrary, perhaps in order to make the courts more subservient. Crassus carried a law against political clubs (*lex Licinia de sodaliciis*).

The opposition to the triumvirs continued, and was directed especially against their underlings, but was of small importance. The elections for 54 were only in part favorable to the triumvirs. Cato, for example, was chosen praetor.

Pompeius and Crassus were severe in drafting soldiers for their provinces. Contrary to custom, the latter left for Syria in November. On his departure he was duly devoted to the infernal gods by one of the tribunes. On the other hand, Pompeius, in violation of the law, remained outside of Rome after the expiration of his term, and governed his provinces through his two lieutenants, L. Afranius and M. Petreius. He probably understood that, to be a

match for Caesar, he could not stay so far away as in Spain.

The Political Campaign of 54. — The political campaign in 54 surpassed all precedent in corruption. Probably this was in part due to the influence of Caesar. One incident illustrates the condition of the times. In return for the support of the consuls, Caesar's candidate for the consulship and his chief competitor entered into a written contract in all due form as follows: if the consuls should not be able to secure the passage of the formal law conferring supreme authority (*lex curiata*) on themselves, and of a senatorial decree providing for the equipment of their consular provinces, these candidates agreed, when elected, to prove by the perjury of three augurs and two ex-consuls that the law and the decree had been passed. One object of this agreement seems to have been to fetter one of the consuls and prevent him from taking any step against Caesar.

Prosecution of Vatinius and Gabinius. — About this time Cicero, who had been courteously treated by Caesar, was induced to defend Caesar's henchman, P. Vatinius, against a charge of illegal canvassing. The verdict was acquittal.

Toward the end of the year A. Gabinius was prosecuted. As governor of Syria he had, in accordance with the wishes of Pompeius, restored Ptolemaeus Auletes to his throne for the consideration of some $13,200,000, and left a Roman garrison for the king's protection. Cicero, who had become one of the lieutenants of Pompeius, was prevailed upon to defend this tool of the triumvirs also. But in spite of Cicero's defense and the support of Pompeius and Caesar, and notwithstanding the fact that a Clodian law had authorized him to wage war outside his province, Gabinius was in the end sentenced to pay an indemnity of $13,200,000, and went into exile. Thus Pompeius lost

his ablest adjutant, and the opposition gained a great victory.

The Consular Election for 53. — In the meantime Caesar's candidate had read the now notorious agreement in the senate, and had, as a result, lost the support of his chief. The tribunes, however, prevented any election by religious and ordinary intercession. The year 53 consequently opened with an interregnum, without any regular magistrates except the tribunes, and this state of affairs lasted until July. Pompeius, who desired to become dictator, allowed anarchy to take its course. By a final senatorial decree (*senatus consultum ultimum*) he was intrusted with the deliverance of the state; but he did not have the courage to press his demands, and failed to secure the coveted distinction. Under his protection an interrex then held the consular election. The candidate who made the agreement public was defeated, his confederate was elected — an occurrence characteristic of the times.

The Consular Election for 52. — The political campaign in 53–52 revived the state of anarchy. Milo, the bold partisan of the oligarchy, was a candidate for the consulship; Clodius, who was now an adherent of the triumvirs, was a candidate for the praetorship. The former gave magnificent games, the latter promised democratic laws. The candidates contended not only by means of money, but with arms. Once, when the election was being held, a riot was raised to prevent the choice of Milo, and both consuls were wounded.

The year 52 consequently began without consuls. Moreover, Pompeius, through a tribune, prevented the senate from passing the customary, but not legally necessary, decree, calling on the patrician senators to meet and choose an interrex. Thus anarchy reached its climax. On Janu-

ary 18, Milo and Clodius happened to meet on the Appian Way, and the gladiators of the former killed Clodius. A mob burnt the corpse in the senate house at Rome (*curia Hostilia*), and both this building and the neighboring court-house of Cato the censor (*basilica Porcia*) were reduced to ashes.

Pompeius Elected Sole Consul. — Then at last an interrex was chosen, and some days afterward the senate passed a final decree and authorized Pompeius to draft troops throughout Italy. He quickly completed the levy, but made no great haste to have consuls elected, as he was opposed to Milo and considered this a good opportunity to secure the reins of government. Finally the senate, with the approval of Cato, decreed that Pompeius was to be elected sole consul (*consul sine collega*), on condition that later, but not before the expiration of two months, he should cause a colleague to be chosen. He was elected and entered on his third consulship.

He now had, as commissioner of the grain supply, pro-consular powers throughout the Roman state, was governor of two provinces, and sole consul — an accumulation of powers incompatible with the republican constitution and indicative of the rapid approach of monarchy.

Third Consulship of Pompeius. — Pompeius at once went to work to end the disorder caused by political intrigues and corruption. His law concerning electoral corruption (*lex Pompeia de ambitu*) prescribed more severe punishments, lessened the privileges of a defendant, and limited the trial to a period of five days; the speeches of the lawyers were limited also by Caesar's law on extortion. It was to be retroactive, and applicable to all cases of electoral corruption since 70, and seemed to be aimed at Caesar. It authorized Pompeius to select the first panel of jurymen.

His law in regard to sedition (*lex Pompeia de vi*) was a case of special legislation (*privilegium*), practically directed against Milo. It established an extraordinary tribunal for the trial of those implicated in the murder of Clodius and in other events connected therewith. This, too, established more severe punishments and curtailed the proceedings. The jurors were to be selected from the Pompeian panel.

These laws to a great extent curbed political oratory in the courts, and in so far checked the republican opposition, or the oligarchy.

Condemnation of Milo and Others. — Milo was the first one prosecuted before the new tribunal. Mark Antony, the son of the Roman admiral of 74, and later triumvir, was one of the prosecutors. Cicero, who had courageously been supporting Milo, was his defender, but he was nervous at the trial and did not plead with his usual skill and eloquence. Milo was condemned and went into exile.

On the other hand, the court acquitted the leader of Milo's band, and condemned the principal henchman and some other partisans of Clodius. Pompeius did not prevent the condemnation even of P. Plautius Hypsaeus, his former quaestor and recent candidate for the consulship, nor that of other very useful subordinates. But he intervened for, and probably saved, his present father-in-law, Q. Metellus Scipio, when he was prosecuted; and, to protect him further, caused him to be elected his colleague. The result of his vacillating behavior was that his opponents could not respect him for his impartiality and justice, nor could his adherents rely on his fidelity and protection; and of those condemned now or earlier many went over to Caesar.

CHAPTER VI.

THE CIVIL WAR AND THE END OF THE REPUBLIC, 52–48 B.C.

I. The Rupture between Pompeius and Caesar.

Position of Caesar. — When affairs at Rome had been regulated, public attention was directed more and more to the general political situation, which had been entirely changed since the conference at Luca.

Caesar had fairly completed the subjugation of Gaul, and had twice crossed the Rhine and the English Channel. But he had also met with reverses. In 54 he lost several thousand men (15 *cohortes*) through an insurrection in northeastern Gaul. This movement for independence he apparently suppressed the next year. The following winter (53–52) he spent as usual in cisalpine Gaul. He endeavored to maintain and extend his influence in the capital by money and other means, and he watched the course of events and the movements of Pompeius. He hastened to Gaul probably after the election of Pompeius, and was now engaged in a very critical struggle against a widespread Gallic rebellion under Vercingetorix. Events in the East had also greatly affected his position in general.

Death of Crassus and End of the Triumvirate. — Crassus, who was spurred on by greed and ambition, had gone to Syria to wage war against the Parthians. He crossed the Euphrates in 53, was defeated some distance from Carrhae, and was afterward surprised at Sinnaca, where he perished. More than thirty thousand Roman legionaries were

slain or taken prisoners in the campaign. The chief remnant of the army was saved by the quaestor Gaius Cassius Longinus.

The death of Crassus involved far-reaching consequences. He had from the beginning served as the ally of Caesar to offset the preëminent renown and influence of Pompeius. At Luca he had obtained a province and an army, in order that he might counterbalance the new military position of Pompeius. He had never been the equal of his confederates, but his participation in the triumvirate had facilitated the distribution of the regal power, which is so difficult of division, and had postponed the ultimately inevitable question of personal supremacy. His death was, therefore, a great loss to Caesar, an advantage to Pompeius, and the harbinger of civil war.

Estrangement of Pompeius and Caesar. — Private affairs hastened the course of events. Julia, Caesar's daughter and the wife of Pompeius, died in 54, and this occurrence tended to estrange the rivals. No immediate rupture took place, however. At the request of Caesar, Pompeius, on his own authority, hence illegally, sent him in 53 one of the legions which had been levied for Spain, but remained in Italy.

Even the report of the death of Crassus did not lead Pompeius to adopt a definite line of action, but it increased his desire to become a dictator, and he became readier to enter into an alliance with the oligarchy against Caesar. Moreover, when Caesar asked for the hand of his daughter and offered to give him his own grandniece in marriage, Pompeius declined, and married the daughter of Metellus Scipio. This was, perhaps, the first definite step toward a breach. On the other hand, when Caesar requested permission to be a candidate for the consulship in 49 while absent from the city, and ten tribunes published a bill in favor of his request, Pompeius supported the bill and it

passed. He thus abandoned a strategic position of great importance.

Immediate Causes of the Attacks on Caesar. — The tribunician law was only a temporary concession. Caesar's isolation through the death of Crassus and his critical position in Gaul invited attack. Furthermore, Pompeius was consul and proconsul, enjoyed the support of the oligarchy, and had a preponderating influence in Rome and Italy. He could not expect to have again so favorable an opportunity to smite his rival, and he was not inclined to neglect it. He was influenced also by personal reasons. Perhaps he never willingly recognized Caesar as an equal, and he was jealous of the fresh laurels and the power of his rival. It may be, he admitted instinctively Caesar's intellectual superiority, and he began to distrust him and was afraid of being outwitted in the contest.

Methods of Attacking Caesar. — Pompeius feared that in a second consulship Caesar would prove more than a match for his opponents, and the oligarchy apprehended that this old enemy would, once for all, overthrow the republic. The best method seemed to be to prosecute him on some charge or other, and convict him. His guilt could no doubt be established, and in any case justice was a minor matter in Roman political trials. In this way he might be banished and prevented from attaining a second consulship. But he could not be prosecuted while proconsul; hence it was necessary either to give him a successor some time before January 1, 48, or to prohibit him from becoming a candidate in his absence. He would then become a private individual and be amenable to the laws.

The Filling of Provincial Governorships. — In 53 the senate had decreed that consuls and praetors should become provincial governors only when five years or more had elapsed

since they left office in the city. This arrangement was no doubt intended to give Pompeius a free hand in filling provincial governorships, and made it possible to supersede Caesar on March 1, 49, — contrary to the former practice and the understanding at Luca. Pompeius caused the senate to confirm the decree, and probably in 51 the principle was established by law.

In the next place Pompeius carried a law in regard to magistrates, which prohibited the candidacy of absent persons. When notified that Caesar would be excluded, he added a clause which should exempt Caesar; but this was merely his personal explanation and of no legal force. Pompeius, therefore, first agreed to Caesar's candidacy and allowed it to be legalized (pp. 252–253), then made it illegal, and next apparently canceled his own provision.

Provincial Term of Pompeius Extended. — While Pompeius was trying to undermine the position of Caesar, he strengthened his own. He secured the election of his father-in-law to the consulship. He caused his own term as governor of the two Spanish provinces to be prolonged for another five years, and induced the senate to appropriate an annual sum of about $1,320,000 for the payment of his soldiers. He could now retain his legions and provinces longer than Caesar. It was, however, sufficiently naïve to suppose that, although Pompeius violated several of his own laws in letter or in spirit, Caesar, who had shown utter disregard for constitutional law and custom, would now be bound by legal formalities.

Activity of Caesar. — Caesar could not interfere with the hostile measures at Rome, as the result of all his campaigns in Gaul was at stake in 52. He was able, however, to defeat the great mass of rebel troops, and obtained the surrender of Vercingetorix, their leader, and of Alesia,

their principal stronghold. By the end of 51 he had conquered the remaining rebels. He then regulated the affairs of Gaul and conciliated the peoples in different ways.

Caesar could not fail to perceive the aim of Pompeius and the oligarchy, and in turn endeavored to fortify his own position. Above all he sought to conciliate the inhabitants of cisalpine Gaul — the chief source of his military strength. As early as 67 he had encouraged their hope of Roman citizenship; and, authorized by a Vatinian law of 59, he had sent five thousand colonists with Latin rights to Comum and conferred citizenship on some of them, perhaps on too many. In fact, it seems probable that he treated all the transpadane Latins as citizens, — for example, by enrolling them in his legions.

As a counter demonstration, the consul M. Marcellus in 51 caused a senator of Novum Comum to be scourged for some offense, in order to show that he was not a Roman citizen. This proceeding served only to attach the transpadane Latins all the more to Caesar.

Policy of Caesar. — Caesar's policy was to avoid civil war, if possible, and to obtain the consulship for 48. By making concessions with this end in view, he hoped, at any rate, to exert a favorable influence on the cautious, timid, or indifferent majority of the senate, on the capitalists, and especially on his soldiers; and he could, even as proconsul, begin war under suitable pretexts. On the other hand, as consul, he might be able to come to an agreement with Pompeius, or he would, as a decidedly superior politician, outmanœuvre him. In any case he could then probably manage the senatorial majority, and have an immense advantage, if an appeal was made to arms. His ultimate aim was to abolish the republican constitution and to establish some kind of monarchy.

Caesar Bribes Curio. — The question of superseding Caesar was discussed repeatedly in the senate in 51, but no decisive step was taken, partly because a great number of senators absented themselves. Nevertheless, it was sufficiently evident that Pompeius and the leaders of the oligarchy had formed a coalition against him. To offset this, Caesar gave one of the consuls elect for 50 a bribe of $1,880,000. But his greatest and shrewdest investment as a corrupt politician was to purchase the tribune Gaius Scribonius Curio, a very dissolute but talented young man, a clever speaker, and an adroit politician. He paid the debts of Curio — the handsome sum of $3,300,000 (HS. 60,000,000) — and promised him other advantages.

Tactics of Curio. — Curio played at first the rôle of an independent and patriotic republican. Soon he discarded his mask and declared, in justification of using his veto, that it was unreasonable to recall Caesar before his time, when the government did not demand of Pompeius that he, too, should resign and disband his army. The state, he urged, would never be at peace unless both surrendered their provinces and armies at the same time. This proposition was very popular. Pompeius later stated that he was ready to resign, but took no steps to that end. In June, 50, the senate decided by a vote of three hundred and seventy to twenty-two in favor of the view of Curio. The vote was not accepted by the presiding consul and consequently had no legal force. Morally the result was that Pompeius appeared to be insincere, and Curio, whose motion Caesar agreed to by letter, could with perfect right continue vetoing senatorial decrees in regard to the provinces.

Doings of Pompeius and his Partisans. — Pompeius and his adherents then caused the senate to order him and Caesar to furnish one legion each for the Parthian war. There-

upon he asked Caesar to return his legion (p. 252). As disobedience would have been impolitic, Caesar sent the Pompeian legion and one of his own. They were, however, kept in Italy, and afterward fought on the side of Pompeius.

Incidentally the censorship served once more as a political instrument. Appius Claudius, now an adherent of Pompeius, expelled a great number of members from the senate. His colleague, L. Calpurnius Piso, who was Caesar's father-in-law, gave him full sway, because the persons degraded joined the party of Caesar, so far as they did not already belong to it. These censors, as well as the others since 70, failed to complete the census.

In October the consul, Gaius Marcellus, proposed that Caesar be declared a public enemy and that the two legions at Capua should, under the command of Pompeius, be sent against him. He failed to get a majority of the senate against the intercession of Curio. Nevertheless, he went to Pompeius, exhorted him to protect the city, and illegally intrusted him with the command of the legions. He induced the consuls elect to declare their consent to this arbitrary procedure. Pompeius accepted the commission, and began in a listless way to levy soldiers.

Under these circumstances Caesar returned to cisalpine Gaul to await developments.

II. The First Two Dictatorships of Caesar and the End of the Republic.

Demands of Caesar. — Caesar, who desired war, privately offered to surrender the Gallic provinces on March 1, 49, provided he might retain at least Illyricum with one legion until he should enter on, or perhaps merely be elected to, the consulship for 48. His aim was probably to throw the odium of the war upon his opponents and to win over Pompeius.

Finally, through Curio, he caused his ultimatum to be read in the senate on January 1. He demanded as a right the privilege of running for the consulship while proconsul, and he declared his willingness to resign at the same time as Pompeius; in any other case he would be compelled to vindicate his rights. The fact that Curio was accompanied by one of Caesar's officers made the threat of war plain enough.

The Senate Declares Martial Law. — Nevertheless, the resolute attitude of the new consuls, and the announcement that Pompeius was ready to help now or never, influenced the weak and timid majority, and against two votes the senate decreed that Caesar should be declared a public enemy unless he resigned before a certain day, perhaps July 1, 49. The tribunes Mark Antony and Q. Cassius Longinus, who were the agents of Caesar, interceded and legally annulled the decree. Discussion with these tribunes led to no results, and the senate therefore on January 7 declared martial law (by the *senatus consultum ultimum*), and authorized the consuls, the praetors, the proconsuls outside the city, and the loyal tribunes in case of necessity to use force against the interceding tribunes. Thereupon Antony and Cassius fled to Caesar at Ravenna, and presumably entreated him to protect their tribunician rights.

Legal and Moral Aspects of the Situation. — As proconsul Caesar had simply the right to petition the senate, but not to make demands and impose conditions. The senate had full legal authority to supersede him on March 1, 49, and it had the power to arm and protect itself against him, and was in duty bound to do so. Morally its position was weakened by the circumstance that it had granted Pompeius what it denied Caesar — in spite of the fact that the former originally obtained his governorship by the aid of the latter.

On the other hand, Caesar had now a very serviceable

pretext for beginning war. Before this he could plead as reasons only his personal safety, his just claim to a second consulship, and the protection of his adherents. All such arguments were utterly inadequate. But, as he had always been a democrat in name, he could now pose as the champion of tribunician inviolability and the right of intercession — in short, of democracy. To be sure, he had as consul ignored tribunician intercession, he had allowed his own adherents to violate tribunes with impunity in his own assembly, he had sent soldiers to carry the election of Pompeius and Crassus, and he was a monarchist; but of what avail are facts against the insidious charm of party phrases?

Beginning of the Civil War. — After the flight of Antony and Cassius, the senate confirmed the resolution (*auctoritas*) of January 1, decreed a general Italian levy, empowered Pompeius to dispose of the public funds, and selected the successors of Caesar and other provincial governors.

When Caesar heard of the decrees and the arrival of the tribunes at Ariminum, he addressed his soldiers especially in regard to the violence toward the tribunes, then crossed the Rubicon, which here bounded his province, and thereby began the war.

The Italian Campaign. — The advance of Caesar caused utter panic at Rome. Pompeius was given by the senate the supreme command in the war. He declared it necessary to leave the city, and affirmed that the senators and magistrates who might remain were public enemies and partisans of Caesar. Even the courts were closed. He departed, and the consuls followed in such haste as to leave the funds in the public treasury behind. After various attempts to negotiate with him had been made in vain, Pompeius, with the last division of his army, sailed from Brun-

disium for Dyrrachium on March 17. Caesar, without any serious engagement, occupied all Italy in sixty days. This astonishing result was due mainly to the vacillation, negligence, and cowardice of the Pompeians, partly to the indifference of the Italians in general. The Italian people did not sympathize deeply with a republican government which did not truly represent them, which did not pursue a national, but rather a municipal, policy, and under which elections were usually decided and laws enacted by the city rabble influenced by intrigues, bribes, and intimidation.

Provisional Settlement of Affairs at Rome. — Soon afterward Caesar went to Rome. Even before his arrival one of his adherents carried a law granting citizenship to the transpadane Latins, and thus ratified Caesar's treatment of them. By a later law (*lex Rubria*) of 49 the relations of the local and the Roman authorities were regulated. Cisalpine Gaul remained a province until 42. It was apparently in 49 that Caesar satisfied an old democratic demand by causing a law (*lex Antonia de proscriptorum liberis*) to be passed, which made the children of persons proscribed by Sulla eligible to office.

The courts were reopened, and the machinery of government was again set in motion. The people at Rome were the only organ competent to pass laws and to elect magistrates, and the senators duly summoned at Rome were the only legitimate Roman senate. Caesar and his party had therefore the great formal advantage that they could claim to be, or to represent, the legitimate government of the Roman state. Everything depended, however, on the issue of the war, and Caesar made as few changes as possible and avoided the use of force wherever he could. He caused the senate to be convened, but was unable to secure its coöperation. Through the irony of fate he, the democratic champion, was compelled to disregard the tribunician right of intercession and inviola-

bility, and took possession of certain public funds (*aerarium sanctius*) by means of force. This proceeding displeased the urban multitude, but otherwise his clemency and moderation in the conduct of the war conciliated many of the neutrals and even of the Pompeians.

The First Dictatorship of Caesar. — While in 49 Caesar was conquering the Pompeians in Spain, the administration of the city affairs was intrusted to the praetor M. Aemilius Lepidus, son of the consul of 78. When the victory of Caesar was reported, Lepidus secured the passage of a law which authorized him to appoint Caesar dictator — a proceeding for which the election of Q. Fabius Maximus in 217 and Sulla's appointment by an interrex might serve as precedents. Caesar entered on the office on his return to Rome in November, 49. Contrary to custom, he did not appoint a master of horse, but he occupied the office only for eleven days. He held the consular election and was elected himself, together with P. Servilius Vatia Isauricus. Even at this critical time he did not yield to the old democratic demand for the remission of all debts (*novae tabulae*, pp. 228, 230), but he carried a law providing that, in accordance with the enactment of 342 against interest, sums paid in interest should be deducted from the principal and the interest in arrears should be canceled; further, the creditors were to receive in payment the property of their debtors at its estimated value before the war. By the provision respecting interest alone the creditors lost about twenty-five per cent of the principal. Perhaps Caesar also established the great legal principle that by surrendering all his property a debtor saved his person and remained free, whether his assets sufficed to meet his obligations or not. This principle is the basis of modern legislation in regard to bankruptcy.

He also caused some of those condemned under the Pompeian law respecting electoral corruption, and others, to be

pardoned by law; and he appointed governors of the provinces within his power. Finally, through a senatorial decree, he was empowered for the rest of 49 and for 48 to take any measures he considered advisable.

The Second Dictatorship of Caesar. — During Caesar's campaign against Pompeius in 48, the second consul, P. Servilius, was at the head of affairs in Rome. The internal peace was disturbed by the praetor M. Caelius Rufus, who was indignant because Caesar had not given him the urban praetorship. He renewed the agitation for the cancellation, perhaps, of all debts, and proposed also that tenants should be granted the remission of house rents for one year. But he was suspended from office, and when he and T. Milo attempted to excite an insurrection in southern Italy, they failed and both perished.

When Pompeius had been defeated at Pharsalus in August and then had been murdered in Egypt by Ptolemaeus, the son of Auletes, Caesar seems to have decided on the future form of the Roman government. Probably according to his instructions, the consul Servilius received by law the power to appoint a dictator and a master of horse. He appointed Caesar extraordinary dictator for an indefinite period and Mark Antony master of horse. Caesar furthermore obtained tribunician powers and inviolability for life. This was a new idea, but in accordance with his democratic antecedents.

In virtue of his dictatorial and tribunician powers Caesar within the next four years changed the constitution, reformed the administration, and was the monarch of the Roman state.

The End of the Republic. — Thus the Roman republic perished after an existence of about four and a half centuries. It had given to the Italians national unity and the

dominion of the western world. It had filled with enthusiasm the noblest sons of Rome, had for a long time been the guardian of Roman liberty, and had beheld the most glorious days of Roman history. Now it was destroyed, and liberty perished with it.

CHAPTER VII.

THE RULE OF CAESAR, 48–44 B.C.

I. The End of the Civil War and the Establishment of a New Monarchy.

Nature of Caesar's Dictatorships. — As extraordinary dictator (*dictator rei publicae constituendae*), popular tribune, and chief pontiff, Caesar possessed in the main the powers of the Roman kings. He might monopolize the power to propose laws and senatorial decrees, and he had the supreme executive and judicial authority. He was specially authorized to deal with the Pompeians as he saw fit, to declare war and conclude peace, to be a candidate for the consulship for the next five years in succession, to nominate all the magistrates except the plebeian aediles and tribunes, to assign praetorian provinces to whatever praetors he pleased, and probably also to have charge of the finances of the state. He was not bound by the republican principles of collegiate and annual tenure, and with his superior authority (*imperium maius*) he controlled absolutely the consuls, praetors, aediles, and quaestors. He could check the tribunes by his power of intercession, but was himself subject to no veto.

Caesar's Law respecting House Rents, Loans, and Debts. — Caesar entered on his second dictatorship in November, 48. He postponed the Roman elections until he should return. Hence Mark Antony was the only curule magistrate at Rome in the beginning of 47. Arbitrary and

violent, he was yet unable to restrain the insubordinate, and he repelled those whom he ought to have conciliated. P. Cornelius Dolabella, a tribune and Cicero's son-in-law, renewed the proposals of Caelius (p. 262). But the plebeian assembly which he summoned was dispersed by Antony, who had been empowered by a final senatorial decree to protect the city. Some eight hundred persons were killed in the riot; still the agitations continued.

After conquering in Egypt and defeating Pharnaces, Caesar returned to Rome in September, 47. He seems to have suspended Antony, but pardoned Dolabella. By a new law he remitted to tenants the house rents for one year to the amount of about $110 in Rome and $28 elsewhere in Italy; and he established the rule that in Italy no one should lend at interest a greater amount of money than perhaps half the value of his Italian real estate, and no one was to encumber his landed estate with debts exceeding possibly half its value. He abolished by edict the religious clubs, excepting those of long standing and the one of the Jews. These organizations had once more become the hotbeds of democratic agitation.

Elections for 47 and 46. — In order to reward his followers, Caesar held the elections for 47. He had his old henchman, P. Vatinius, chosen consul. He nominated praetors, curule aediles, and quaestors, who were then elected. He increased the number of pontiffs, augurs, and keepers of the later Sibylline books from fifteen to sixteen, that of masters of sacrificial banquets from seven to ten, and of praetors from eight to ten. He remunerated other adherents by appointing them senators.

At the consular election for 46 Caesar was elected for the third time, and in violation of the Licinian law the patrician, M. Aemilius Lepidus, became his colleague. He again

disposed of the provinces, and in the choice of governors did not confine himself to persons of praetorian rank.

The African War. — After a stay of about three months, Caesar, in December, 47, left Rome for Africa, where the ablest and most illustrious republican leaders had made a last stand and had regained no inconsiderable strength. In April he won a complete victory at Thapsus. Marcus Cato would not survive the republic, and killed himself. In July, Caesar arrived in Rome.

The Triumphs of Caesar. — After the battle at Thapsus, Caesar believed that his lieutenants would be able to finish the war against the Pompeians in Spain, and hence that he had definitively conquered. In place of being provisional, his government of Rome now became regular and apparently permanent. In August he accordingly celebrated magnificent triumphs over Gaul, Egypt, Pontus, and Africa, including the Pompeians. He rewarded his soldiers and gave presents to the other citizens. With lavish hand he seemed to vie with the liberality, or the servility, of the people in conferring honors and powers on him.

Caesar's Policy of Conciliation. — Caesar was now in a position to introduce reforms and to modify further the constitution, but first of all he considered it necessary to reconcile the two old parties and restore confidence. He made the most lenient use of his absolute power to deal with the Pompeians. He spoke in the most respectful manner of Pompeius, and in 44 replaced his statue and that of Sulla, which the people had thrown down early in the war. But he banished some Pompeians from Italy, and, while granting certain exemptions, he confiscated the property of Pompeius and other aristocrats who had fallen on the republican side. He also restricted the political rights of a certain class of Pompeians.

But clemency prevailed. Caesar usually pardoned those who surrendered, and he readily forgave most of his political enemies, though some were tried in due judicial form. By 44 he pardoned all the remaining Pompeians and removed their political disabilities. Moreover, he pardoned by special laws those condemned under the Pompeian law respecting electoral bribery (p. 249), and numerous other exiles. He had also put Pompeians in high military and civil offices; for example, he made M. Brutus governor of cisalpine Gaul.

Like a true statesman, he had spared his fellow citizens and placed himself above all parties. Thereby he excited discontent and hatred among the democrats and did not win the aristocrats, but he prepared the way for the union of all the best elements of the state in support of the new order of things.

Caesar Dictator for Ten Years. — Before returning from Africa, Caesar had obtained the dictatorship for ten years from January 1, 45; but it was to be an annual office, and he was to appoint a master of horse annually. He was furthermore authorized to appoint the extraordinary as well as the ordinary magistrates, and always to sit between the consuls in the senate and to be asked his opinion first. Possibly he was also given censorial powers (*praefectura morum*) for three years. The extravagant honors conferred on him did not enlarge his powers, but served to show the establishment of a new monarchy.

Extraordinary Magistrates for 45. — Caesar was elected sole consul for 45. Contrary to expectations, he was obliged to leave for Spain in December, 46. Before departing, he appointed eight extraordinary magistrates (*praefecti urbis*) of praetorian rank, to take the place of praetors, curule aediles, and urban quaestors, under the supervision of M.

Lepidus, who was to be master of horse for 45. In March he gained the hard-fought but decisive victory at Munda. He was delayed, however, and did not return to Rome until the beginning of October.

Caesar's Title of Imperator. — New honors and powers were showered upon him before and after his arrival from Spain. He was called deliverer (*liberator*), and in his honor a temple was to be built to liberty. The senate conferred on him the title, or rather the name, of *imperator*, as a hereditary distinction. The people decreed that, in accordance with this title, no one was to be commander-in-chief except Caesar, that he alone should be authorized to have soldiers, and that he was to have sole control of the public moneys. This decree simply defined the powers he already had as extraordinary dictator.

He was empowered to appoint all magistrates, even those of the plebeians, but did not accept this sweeping concession. He established by a plebiscite the rule that the people should elect the consuls and one-half of the other magistrates; and he was to nominate the candidates for the remaining offices.

He was also offered the privilege of holding the consulship for ten years in succession, but he declined. Neither he nor the Roman emperors wished to base their authority on the consular office, which was perhaps too closely associated with the republican principles of collegiate and annual tenure.

Caesar Dictator for Life. — In 44 Caesar was made dictator for life (*dictator perpetuus*), but he was still to appoint a master of horse every year. He obtained the censorial powers for life. Thus he was permanently to have a free hand in dealing with senators, knights, and other citizens, and not be hampered by limited and collegiate tenure. He

was also, it seems, to enjoy the tribunician inviolability everywhere, which the tribunes possessed only within the mile limit (p. 30). According to the precedent of Servius Tullius and Sulla he was empowered to advance the sacred city limit (*pomerium*, pp. 24–25). He was named father of his country, and his image was to be put on the obverse of the coins struck by the senate. This practice was in ancient times a universal badge of monarchy.

In 45 he had been authorized to wear at all times a laurel wreath and the red shoes of the Alban kings; in 44 he was empowered to wear the complete costume of the old kings, his statue was to be placed with those of the seven kings, and all his future measures were to be valid.

Elections for 44 and 43. — Caesar and Mark Antony were chosen consuls for 44. Contrary to the constitution, Caesar caused the sixteen praetors to be elected under the presidency of a praetor, and he made M. Junius Brutus urban praetor, and G. Cassius Longinus foreign praetor (*praetor peregrinus*). In case no son should be born to him, he had adopted his grandnephew Gaius Octavius, and he intended to make him master of horse for the latter part of 44. As he expected to be absent in the East for an indefinite period, all the magistrates for 43 and the consuls and tribunes for 42 were chosen early in 44.

II. The Republican Magistrates, Senate, and Assemblies in the New Monarchy.

Degradation of the Republican Magistrates. — Caesar, with his enormous powers, labored consistently to degrade the republican magistrates, senate, and assemblies. He seems to have contemplated the abolition of consuls, censors, praetors, curule aediles, and quaestors, leaving only the plebeian magistrates. He would thus have reintroduced the

old royal authority of appointment (p. 17). But he abandoned this plan and permitted the regular magistrates formally to retain their previous powers. In practice he confined them, however, in a large measure to the municipal sphere, and in so far made Rome the first municipality in the state, in place of the ruling city.

The Consulship. — After returning from Spain, Caesar resigned his office of sole consul, and caused the ordinary magistrates to be elected for the rest of the year. The repeated election of consuls for a few months may have been due to circumstances; but it decreased the dignity of the office, and led to the result that, after 45, consuls with a full annual term became exceptional.

In December, 45, Caesar had a candidate elected consul for a few hours, and thereby gave him the privileges of an ex-consul, but degraded the office and unnecessarily wounded the feelings of old republicans like Cicero. He also conferred on ten ex-praetors who had not held the consular office the insignia and honorary privileges of ex-consuls (*ornamenta consularia*), and he gave others all the honorary and political rights of a higher rank (by *adlectio* e.g. *inter praetorios, consulares*) than their official career entitled them to. Such distinctions had been granted in exceptional cases during the republic, especially as the reward of successful prosecution, but in the imperial period they became quite common.

The Increase of Magistracies. — Caesar further increased the number of praetors from ten to fourteen, and finally to sixteen. He desired partly to reward his followers, and in part to improve the provincial administration. He created two new plebeian aediles (*aediles Ceriales*), who were placed in charge of the grain supply, and he raised the number of quaestors to forty. This was necessary on account of the larger number of praetors and of senators (p. 271).

He apparently left the public treasury in charge of the urban quaestors, who were inexperienced young men serving only one year. But in imperial times praetors, or special officials of praetorian rank, had charge of it.

In consequence of this increase in number, and of the new conditions, the magistrates lost more and more their political character, and were practically degraded to administrative officials.

Tribunician Opposition. — In spite of his dictatorial powers Caesar could not prevent tribunician opposition. Two of the tribunes in 44 took away a diadem placed on his statue on the rostra, and in other ways opposed the endeavor to make him king. He claimed they wished to excite the people against him, and, following the precedent of Tiberius Gracchus, he caused them to be expelled from the tribunician college by a plebiscite, arbitrarily banished them, and struck their names off the senatorial roll.

Membership of the Senate. — The magistrates had been humbled both in dignity and power, but the senate suffered still more. As numerous senators had joined Pompeius, and many had fallen in the war, the body which Caesar convened in 47, after his return from Asia, was simply a Rump senate. He had already admitted some of his followers to the equestrian class, and some centurions to the senate. During subsequent revisions of the senatorial roll he allowed a number of Pompeians to reënter the senate, and he admitted private soldiers and the sons of freedmen. Among these were many Gauls who had secured Roman citizenship. He did not wish the senate to represent the aristocracy exclusively, but all elements in the state, just as the old kings had admitted persons that were not citizens. In accordance with an apparently democratic idea, he increased the number of senators to nine hundred.

Power and Influence of the Senate. — As Caesar nominated half of the quaestors and exercised at will the power to admit and expel senators, he could always produce a majority in his favor and make the senate a subservient organ. In these ways he greatly decreased the dignity and prestige of the senate, and made it plain that so heterogeneous and dependent a body was simply a compromise with the past, and could not wield the controlling influence in the government, but would be as inferior to the executive as the republican senate had been superior. As the senate had not greatly altered its legal position since the royal period, Caesar met with slight legal difficulties in reducing it to the old position of a state council, or advisory body, which had been its ordinary function in the regal times. He made use of it mainly to confirm his regulations concerning independent states and rulers, but his decrees did not always correspond with the senatorial resolutions on which they were supposed to be based. He further humiliated the senate by usually summoning only the leading members or consulting only his confidential friends, who formed a sort of Jacksonian 'kitchen cabinet.'

Increase of the Patriciate. — Caesar had degraded the senate, and he humbled also the old republican aristocracy. The patriciate still existed as a close guild of hereditary members, but without any important privileges. As no new members were received (p. 35), it had decreased more and more, and at this time comprised some fifteen or sixteen clans (*gentes*). Caesar was authorized by a plebiscite to admit new members to the patriciate, and among others introduced his grandnephew Gaius Octavius. He may have taken this step partly to increase the patrician section of the senate (p. 33) and the number of candidates for the patrician priesthoods, or to reward his followers; but probably he desired to create a new monarchic nobility which

should be superior to the old aristocracy and the senatorial class.

Membership of the Popular Assemblies. — While Caesar reduced the senate to a much lower position than it was destined to occupy under the early empire, he allowed the popular assemblies to remain formally the same. He did not reorganize them, although no census had been taken for a quarter of a century. The classification of old citizens was therefore very faulty and defective; Roman citizenship had also been extended recently, and Roman colonies had been founded in the provinces. The urban population might still form, for example, the centuriate assembly in all its divisions. But it was an exceedingly defective representation of the Roman people, who were scattered all over the Mediterranean world, and it could not be permitted to exercise any great influence on the imperial government.

Powers of the Assemblies. — As Caesar did not wish to establish a military monarchy, he was obliged to control the assemblies by other means than force. In consideration of all he had done for the urban multitude, he might suppose his popularity would suffice to secure the adoption of his measures. His leniency toward the Pompeians, his public works, and the fact that he had not, like Sulla, confiscated lands to any great extent, might be expected to influence the middle classes in Italy and insure their support.

Moreover, with his dictatorial and tribunician powers he controlled almost absolutely all other magistrates, and thereby the assemblies, which could take no legal action alone. He also nominated about one-half of the ordinary magistrates and all the extraordinary officials, and hence made them personally dependent on himself. In this way he could better check the activity of the assemblies, and he materially reduced their electoral powers.

While he made extensive use of the assemblies in passing laws, and in so far recognized the sovereignty of the people, he turned to account the maxim of the royal constitution (p. 15), that the command of the supreme magistrate is unconditionally valid as long as he remains in office, and made large use of his power to issue edicts. Thus he established a valuable precedent for the Roman emperors.

He also recognized the supreme criminal jurisdiction of the assemblies, but left them less scope for its exercise than Sulla had done.

Disappearance of the Assemblies. — Caesar had accelerated the general tendency, and the assemblies soon lost all their real powers. Augustus took away the popular jurisdiction, and assigned it to the emperor, the senate, and the courts (*quaestiones*), which had in the main had it before. The elective powers of the assemblies were in the first place abridged by the right of the emperor to nominate candidates for some offices, and in 14 A.D. the senate was empowered to nominate candidates for all the remaining offices. The nominations, or rather elections, were then announced in the popular assembly, and might be applauded.

The popular legislative powers were never formally abrogated, but they were exercised by the emperors in issuing administrative edicts and by the senate. After the reign of Nerva (96–98 A.D.) no laws were passed by the assemblies. But the form of a popular decree was preserved in granting citizenship, conceding municipal charters, and conferring tribunician and other powers on an emperor.

III. The Municipal and Imperial Reforms of Caesar. General Observations.

The Distribution of Grain. — On his return from Africa Caesar began a number of important municipal and imperial reforms, which he completed during the years 46–44.

Soon after celebrating his triumphs he caused a census of the population of Rome to be taken in the modern way from house to house, in order that he might regulate the free distribution of grain. As a result he reduced the number of those receiving the monthly allowance from 320,000 to 150,000, and decreed that the list of 150,000 be revised annually and an equal number of new applicants be enrolled in place of those who were dead. By this arrangement he lessened this burden on the treasury, which in 46 probably amounted to some $4,224,000 annually; he restricted the intrusion of persons who were not poor, and he checked the emigration of indigent people to Rome. The reform did not long remain in force, and in 2 B.C. Augustus fixed the number of recipients at two hundred thousand.

Assignment of Lands and the Founding of Colonies. — Caesar soon began to assign land in Italy to his soldiers. But, unlike Sulla, he did not settle them in military colonies. Thus he prevented conspiracies, and he was not obliged to drive out the former owners.

It seemed necessary to make further provision for the veterans and other Roman citizens. Accordingly Caesar established, or planned, Roman colonies at Baeterrae, Arausio, Noviodunum, Urso or Julia Genetiva, Carthage, Corinth, Sinope, and elsewhere. Eighty thousand citizens are said to have been sent to his transmarine colonies. Perhaps on account of this decrease of the population, Caesar ordered that at least one-third of the herdsmen of the great stock-raisers should be freemen.

Extension of Citizenship and Latin Rights. — The province of Narbo now entered the preparatory stage which cisalpine Gaul had occupied before 49 (pp. 191, 255). It had five Roman colonies, and at least the majority of its other communities received Latin rights. In Spain the ancient city

of Gades had obtained the full rights of a Roman municipality. It was the first foreign provincial town that secured Roman citizenship. Others soon followed, and a greater number acquired Latin rights. In Sicily a great number, if not all, of the communities were granted Latin rights.

In addition Caesar conferred citizenship on numerous separate individuals, especially Gauls and Spaniards. But he probably selected mainly Greek freedmen for the Roman colonies in the East. He also granted citizenship to all physicians and teachers of the liberal arts at Rome, in order to elevate these professions.

The Municipal Law of Caesar. — The Rubrian law of 49 had regulated the cisalpine municipalities, and ordered, for example, that the local magistrates should have the power to decide through jurymen all lawsuits not involving more than $825, and certain others without regard to amount. In other cases they were simply to conclude a preliminary trial, and refer the parties to the Roman praetor.

By the municipal law of 45, Caesar to a certain extent removed the inequalities in the municipal organization, and placed all Roman municipalities in Italy, Gaul, Spain, and elsewhere on a level. Each city was to have its own popular assembly, senate, and elective magistrates, who were to govern the municipal territory, take the census, and send the lists to Rome. It was also to possess an independent jurisdiction in civil cases not exceeding a certain amount, and in criminal cases against slaves and others, with the exception of such as legally should come before a court at Rome. This municipal ordinance remained the fundamental law for the imperial times; and it is a noteworthy fact that the municipal assemblies retained their powers longer than the assemblies at Rome.

The Latin and other formally independent communities

in the provinces had even a larger share of local self-government than the Roman municipalities, but they were subject to the arbitrary interference of the governors.

Equalization of Italy and the Provinces. — These colonial and municipal measures improved the condition of the provinces, and other changes contributed to the same result. The troops were being withdrawn from provinces not bordering on the imperial frontiers; and the distinction between the civil jurisdiction of the consuls and praetors and the military jurisdiction of the proconsuls and propraetors lost a great deal of its significance, when the martial procedure was practically the same as the civil, and one dictator ruled over all. Thus the sharp contrast that had existed of old between the Italian and the provincial territory was being effaced, the ideas of Gaius Gracchus and the democrats were realized in a brilliant fashion, and imperial unity was progressing apace.

The Roman Provinces. — In addition to these measures Caesar directly promoted the welfare of the provinces by reorganizing the provincial administration. At the end of the republic there were fourteen provinces: Sicily, Sardinia with Corsica, hither and further Spain, Narbonese Gaul, cisalpine Gaul with Illyricum, Macedonia with Greece, Asia, Bithynia with Pontus, Cilicia with Cyprus, Syria, Crete, Cyrene, and Africa. Caesar made Illyricum an independent province, and established the two governorships of Lugdunese and Belgian Gaul, making seventeen in all.

The Provincial Administration. — While the republican proconsuls and propraetors had been practically sovereign and independent, Caesar could keep the governors under strict control. Formerly the distribution of provinces depended on the decree of the senate or people, on personal agreement, or on the drawing of lots. Caesar now appointed all

the governors of praetorian rank, and when he was a consul himself only one province was left to be otherwise disposed of. He abolished the five years' interval between the urban and the provincial term (pp. 253–254), and ordained that the proconsuls were to remain in office two years and the propraetors one. From his own career he readily understood the dangers of a prolonged provincial tenure. But he could recall his appointees at discretion.

Besides, he restricted their powers. As dictator he was their commander-in-chief, and he probably kept them further in check by appointing the brigadier generals or adjutants of the legion (*legati legionis*), an authority regularly exercised by the emperors. Possibly he introduced the practice of appointing special tax-collectors (*procuratores*). He also enforced his law in regard to extortion.

Financial Reforms of Caesar. — Caesar regulated in particular the provincial finances and improved the financial administration. In 48 he converted the tithes of the province of Asia (p. 171) into fixed money payments, and left their collection to the different communities. He likewise abolished the tithes in Sicily and other places, in consequence of the bestowal of citizenship or Latin rights. In so far he restricted the pernicious activity of the equestrian tax-collectors, but he continued the old system (pp. 39–40) for the indirect taxes. While he introduced a great saving in the distribution of grain (p. 275), he increased the public expenses by almost doubling the pay of the soldiers, who had before received annually about $26 and were now paid $50. But the change was necessary. He had to meet enormous expenses, but he had also extraordinary sources of income, and at his death left in his own and the public treasury a sum of $44,000,000, four times the regular income of the state in his youth, and ten times the amount in the treasury during the most flourishing period of the republic.

Public Works and Projects of Caesar. — The efficient management of the finances provided Caesar with the means for making internal improvements. His public buildings were distinguished not only for their size and magnificence, but for their utility. To relieve the old Forum, he constructed for the popular assemblies a new place of voting, the *saepta Julia*, in the campus Martius; he built the *forum Julium*, and commenced a great courthouse and exchange, the *basilica Julia*. He is said to have spent $8,800,000 on his buildings.

But these structures were only a beginning. He planned to build a new senate house, a theatre, and a temple to Mars, and to establish a Latin and a Greek library. He proposed to drain the Pomptine marshes and the Fucine lake, to lead the Tiber around the campus Vaticanus and to construct a harbor at Ostia. Further he intended to build a great military road from the Tiber across the Apennines to the Adriatic Sea, and to dig a canal through the isthmus of Corinth, a project finally executed a few years ago.

Judicial Reforms of Caesar. — In the department of justice Caesar retained in the main the old procedure in civil and criminal cases. He did not follow in the footsteps of Gaius Gracchus; on the contrary, he excluded the tribunes of the treasury (*tribuni aerarii*) from the jury panel. Possibly the reason for this change was that these officials were now of no importance, and there were no other desirable representatives of the middle and lower classes.

The Criminal Law. — Caesar issued new laws in regard to the courts for cases of treason and violence. He recognized the supreme judicial authority of the people in so far as to threaten with punishment any magistrate who had killed, scourged, or otherwise done violence to a citizen appealing to the people. He abolished the lenient rule which per-

mitted voluntary exile before a sentence was passed, and enjoined complete or partial confiscation of the property of a defendant who was sentenced to banishment. He intended also to codify the civil law, but this important work was not accomplished until more than six centuries later.

Personal Jurisdiction of Caesar. — Caesar claimed, and exercised, the right to render final judgment in capital and civil cases, and thus reëstablished, to a certain extent, the old royal jurisdiction. He tried, for example, some candidates accused of electoral bribery, although such cases properly belonged to the jurisdiction of a praetor; and he sat in judgment on King Deiotarus, whose cause pertained to the jurisdiction of the senate.

Caesar and the republican tribunals had apparently coördinate jurisdiction, but in case of conflict the latter gave way. While he did not have the authority to cancel the verdict of jurymen, he probably reviewed the decisions of all inferior magistrates, and thus in some measure established the exceedingly important appellate jurisdiction of the Roman emperors.

These modifications of law and procedure did not remedy the fundamental evils of the judicial administration, the influence of politics and the rivalry of classes; but conditions were different when all were subject to one master, and justice might be expected to prevail over partisanship.

The Census. — As the governor of the empire, Caesar needed reliable information concerning imperial resources in men and money. He had therefore provided in his municipal law that the census of citizens should not as heretofore be taken only in Rome, but in every Roman municipality (p. 276). He is also said to have planned measuring and surveying the whole empire. In these projects he did not succeed. The census of Octavian in 29 B.C. was the first one since 70.

The Gold Coinage. — Caesar, finally, hastened the introduction of the gold standard, and reformed the calendar. Following the precedent of Sulla and Pompeius, he paid his soldiers their rewards in gold coins (each *aureus* = HS. 100). These he issued in such quantities that they led to the establishment of the gold standard during the imperial period.

Reform of the Calendar. — The republican calendar, which was still the lunar calendar of the decemvirs, was now, through the omission of intercalary months, sixty-seven days ahead of the correct time. There had been one intercalary month in 46, and Caesar, by an edict, added two more between November and December. Hence this year contained fifteen months, or 445 days. He gave the months their present number of days, while before March, May, *Quintilis*, and October had had thirty-one days each, February usually twenty-eight, and the others twenty-nine; and he directed that an intercalary day was to be added to February every fourth year. In 44 the month *Quintilis* was called July in his honor, and in 8 B.C. *Sextilis* was named August in honor of Augustus. The Julian calendar was slightly modified by Pope Gregory XIII. in 1582; otherwise it still remains in force.

Caesar as a Statesman. — Caesar was the ruler of Rome for about five years, and in the intervals of seven campaigns he spent a year and a half in his capital. He displayed extraordinary ability, unique versatility, and marvelous energy. He was not an advocate of new ideas, a creative statesman such as Gaius Gracchus, but rather a man of supreme executive and administrative ability like Sulla. Nor was he endowed with profound political insight or preeminent tact in politics. Perhaps this was due to the fact that he represented two incompatible principles: he was, in

a large measure, the successor of the old democracy, and he was the leading monarchist of his time and the precursor of Roman imperialism.

Caesar the Executor of Gaius Gracchus. — In a general review of Caesar's constitutional and administrative reforms it is evident that he realized to a large extent the ideas of Gaius Gracchus and his followers. He humbled the senate and made the magistracy independent, he carried farther than ever the equalization of the different classes in Italy. He relieved the debtors, distributed lands, and founded colonies in the provinces. Following the example of the democrat Sertorius, he tried to Latinize the provincials, and he endeavored in other ways to equalize the status of Italy and its dependencies.

Caesar as a Monarchist. — On the other hand, while Gaius Gracchus had been content with civil power and, like Pericles, tried to rule by virtue of his personal influence, Caesar, true to his antecedents, combined the tribunician powers of Gracchus with the dictatorial, or monarchic prerogatives of Sulla, and thus effected that union of the civil and military authority on which Roman imperialism was destined to rest.

Like a true Roman, he was so deeply imbued with the idea of the efficacy of constitutional forms, that in spite of the revolutions of three generations he believed that the people would respect law and justice, which he had so often violated, and that the soldiers whom he had employed to kill fellow citizens and to destroy the republic, would now as civilians cherish the Caesarian tyranny. Accordingly he did not establish a military monarchy, but aimed by various measures to subordinate the military to the civil authorities. Hence he did not organize a royal corps of guards, and finally dismissed even his military escort.

Caesar's Political Faults and Failure. — In these measures he made the same fatal mistake as Gracchus and Sulla (pp. 175–176, 209–210), and the natural result followed. He overthrew once for all the government of the aristocrats and the capitalists, but he failed to make his constitutional changes permanent, and he promoted the early establishment of a military monarchy.

His failure and his own downfall were due to his personal weaknesses and his want of political insight. If his constitutional position had been as indefinite as that of Augustus, and his aims as vague as those of Charles the second of England, he might have succeeded. But he was out of touch with the people, and did not discern what was expedient or even possible in politics. As a result, he hastened to occupy the odious position of extraordinary dictator, and he was insatiable in his desire for powers and honors. He was too radical in introducing reforms, and too hasty in developing the unity of the empire and the equality of nationalities. He also promoted the policy of favoring the Greeks, which later led to the founding of an eastern and Greek empire.

He excited opposition by his methods as well as by his acts. He unnecessarily wounded the feelings of the republicans and the people, he was partial even as a judge, and showed the greatest weakness in selecting his subordinates.

Results of Caesar's Work. — In spite of his short rule, however, Caesar left to his adopted son a great name, a large number of devoted soldiers, and especially the idea of Caesarism, the general conviction that monarchy was inevitable. He had shown how the magistrates could be controlled, the senate be checked, and the assemblies be managed. In a general way he had established precedents for the legislative

powers, the military and financial control, and the appellate jurisdiction of the Roman emperors. But above all, by his conquest of Gaul, and his policy of Latinizing the western peoples, he helped to cure the political and economic evils of Italy, and became the founder of the Romance nations.

INDEX.

THE REFERENCES ARE TO PAGES.

adlectio, 11; *inter consulares*, 270.
adoption, 2, 11.
aediles Ceriales, 270.
aediles, curule, instituted, 67–68; enforce Licinian law, 69, 70; claim to seat in senate, 75–76.
—— plebeian, 42, 45, 56; custody of senatorial decrees, 57; claim to seat in senate, 201.
—— in charge of festivals, 143; loss of jurisdiction, 206.
Aemilianus, Publius Cornelius Scipio, 136, 138, 159; suspends work of agrarian commission, 165, 182.
Africanus the elder, Publius Cornelius Scipio, proconsul, 126–127, 129; policy, 132; colonies, 132–133; impeached, 135–136.
agnati, 2.
allies of Rome, position of, 100; after second Punic war, 130–131; citizenship of, 167, 174, 188–191.
appeal, 12; first Valerian law concerning, 30, 53; Valerio-Horatian law, 55; third Valerian law, 83, 87; Porcian laws, 133; law of Gaius Gracchus, 169, 231, 239–240, 274, 279–280.
aquae et ignis interdictio, 240.
aristocracy, the new, origin of, 102; membership, 102–103; privileges and insignia, 103–104; aim, 104; political position, 104–105; statesmanship, 109; see *Nobility* and *Oligarchy*.
aristocracy of wealth, origin, 116; census, 116; growth, 117, 153; importance, 129; number in 225 B.C., 117; insignia, 117–118; influence on the government, 153–154; privileges, 154; see *Horsemen* and *Knights*.
as, reduction in weight of, 122–123; *sextantarius*, 122.
assembly, the centuriate, method of voting in, 36; character, 36–37: powers, 37; elects decemvirs, 51; elects censors, 61; reformed by Flaminius, 118–121; method of voting after 220 B.C., 120; importance of, 121; reorganized by Sulla, 195; not allowed to elect consuls, 197; see *Centuries*.
—— the curiate, membership of, 10; procedure, 10–11; powers, 11–12, 35–36; membership during republic, 35, 127; represented by lictors, 156.
—— a new popular (*ca.* 447 B.C.), see *Comitia tributa*.
—— the plebeian, organization of, 45; powers, 45–46; reorganized, 48–49; validity of plebiscites, 57, 74, 83–84; not to meet on the *nundinae*, 84; becomes the chief legislative body, 156.
assemblies, the popular, powers and influence of, 77, 87–89, 126–127, 155–156; subserviency, 156–157; unsatisfactory as courts, 145; position under Sulla, 200–201; jurisdiction, 201; proceedings published, 236; under Caesar, membership,

assemblies (*continued*).
273; powers, 273–274; disappearance of, 274.
augurs, the, 18; functions and powers of, 82; elected, 180; see *Priestly colleges*.
auspicia, 16.
authority, extension of, see *Prorogatio imperii*.

ballot, introduction of the secret, 157.

Caere, incorporation of, 95–96.
Caesar, Gaius Julius, sketch of, 212–213, 216; supports Gabinian law, 219; supports Manilian law, 220–221; vindicates Marius and Cinna, 224, 225, 226, 227; prosecutes Rabirius, 227–228; chief pontiff, 228; Catilinarian speech, 231, 232; suspended from office, 233; rapid rise of, 234–235; organizes first triumvirate, 235; elected consul, 235; agrarian law, 236–237; law regarding extortion, 238; governor of Gallic provinces, 238, 239, 240; victories in Gaul, 242; conference at Luca, 244–245; motives for continuing triumvirate, 245; extension of his governorship, 246; general position of, 251; estrangement of Pompeius, 252–253; causes of attacks on, 253; methods of attacking, 253; activity of, 254–255; policy, 255; bribes Curio, 256, 257; demands of, 257–258; aspects of the situation, 258–259; democratic plea, 259; beginning of civil war, 259; Italian campaign, 259–260; provisional settlement of affairs at Rome, 260–261; first dictatorship, 261–262; second dictatorship, 262; nature of his dictatorships, 264; law respecting house rents, loans, and debts, 264–265; elections for 47 and 46 B.C., 265–266; third consulship, 265; African war, 266; triumphs, 266;
Caesar (*continued*).
policy of conciliation, 266–267; dictator for ten years, 267; sole consul, 267; appoints extraordinary magistrates, 267–268; title of *imperator*, 268; dictator for life, 268–269; advances the *pomerium*, 269; elected consul, 269; adopts Gaius Octavius, 269; degrades the republican magistrates, 269–271; humbles the senate and increases number of senators, 271–272; increases patriciate, 272–273; manages the assemblies, 273–274; regulates distribution of grain, 274–275; assigns lands and founds colonies, 275; extends citizenship and Latin rights, 275–276; municipal law, 276–277; provincial administration, 277–278; financial reforms, 278; public works, 279; judicial reforms, 279; criminal law, 279–280; personal jurisdiction, 280; census, 280; gold coinage, 281; reform of calendar, 281; as a statesman, 281–282; the executor of Gaius Gracchus, 282; as a monarchist, 282; political faults and mistakes, 283; results of his work, 283–284.
calendar, see *Fasti*.
canton, 3–4.
capite censi, 36, 119–120, 154.
caput, 169.
Catilina, Lucius Sergius, 222–223, 224–225; consular candidate, 225; prosecuted, 225–226; second conspiracy, 228; canvass in 63 B.C., 229; outbreak of the insurrection, 229–230; failure and death, 230–231.
Cato, Marcus Porcius, the censor, party of, 134; in provincial affairs, 134; censorship, 134–135; impeachment of the Scipios, 135–136; influence of, 136, 145.
—— **Marcus Porcius, Uticensis**, 224; Catilinarian speech, 231; his intercession ignored, 233, 234, 238; sent to Cyprus, 240, 246, 266.

censors, instituted, 61; functions of, 62; authorized to select senators, 75, 76; not to deprive a citizen of the right of suffrage, 81; may introduce new rules of enrollment, 81; second term prohibited, 89; useful to the nobility, 105; zenith of the office, 115; powers restricted, 121; powers and opportunities, 142–143; temporary abolition of, 204–205; restriction of powers, 239; censorial powers of Caesar, 267, 268.
censorship, see *Censors*.
census, the Servian, 21; period of, 61; of fifth Servian class, reduced, 118–119; Caesar's provision for, 280.
centuria capite censorum, 36, 119–120.
centuria praerogativa, 120.
centuries, the Servian, 22–23; based on districts, 119; the equestrian, 8, 20, 23; their prior vote, 36, 119, 121; selected by censors, 62; census of, 116; disappear from active service, 181–182; see *Aristocracy of wealth*.
certus ordo magistratuum, 139–140.
Cicero, Marcus Tullius, sketch of, 213; supports Manilian law, 220–221, 222, 224–225; consular candidate, 225; opposes law of Rullus, 227; defends Rabirius, 227, 228; baffles Catiline, 229–230; executes five conspirators, 230–231; legality of the act, 231; insurrection suppressed, 231, 232; banishment of, 239–240; recall, 241–242, 244, 245, 247; defends Milo, 250.
Cinna, Lucius Cornelius, consul for 87 B.C., 195, 196; supremacy of, 196–197; character of his administration, 197.
citizens, rights and duties of, 7–8; rights within the Latin league, 25; rights of (*ca.* 287 B.C.), 87; enrolled and classified by Appius, 79; by
citizens (*continued*).
Rullianus, 80–81; by Flaminius, 118–119, 154–155; territory occupied by, 99; local self-government, 99; without political rights, 99, 148; enrollment of the new, 191, 196, 198, 200.
—— the number of, in 252–247 B.C., 108; in 234 and 204 B.C., 128; from 204 to 136 B.C., 148–149; in 136–125 B.C., 164–165; in 115 B.C., 176; in 86 B.C., 197; in 70 B.C., 216–217.
citizenship, admission to, 11; acquisition of, 94, 97; without political rights, 95–96, 97, 109–110, 148; question of extending, 147; to be conferred on certain Latins, 184; of the allies, 167, 174, 190–191, 198; regulated by Sulla, 200; granted to transpadane Latins, 260; extended by Caesar, 275–276.
civitas sine suffragio, 95–96, 97, 109–110, 148; see *Citizens*.
clan, the Latin, 3; the younger, 20; the patrician, abolish the monarchy, 26; their aim, 27–28.
class, equestrian, see *Aristocracy of wealth*.
classes, the five Servian, 22; the middle and lower, losses of, in second Punic war, 129–130.
Claudius, Appius, the decemvir, 53–54; the censor, 78–81.
clavus, 104.
clients, 3, 8–9, 24, 48–49, 71, 78, 129, 157.
Clodius, see *Pulcher*.
colleges, the priestly, quasi-popular election of, introduced, 180; abolished, 205; restored, 228; increased by Sulla, 205; by Caesar, 265.
colonies, the Latin, 94–95, 96; the new, in 334–273 B.C., 97; the last, 97, 99–100; contingents of, 101: proposed representation of, 125; in second Punic war, 130–131, 133; not granted citizenship, 147, 158,

colonies (*continued*).
167, 174; obtain citizenship, 190–191.
—— Roman, 96, 132–133, 148, 151; of Gaius Gracchus, 172, 176; proposed by Saturninus, 183–184, 185; Capua, 198, 237; self-government of, 99; under Sulla, 206–207; colonies of Sulla, 206; of Caesar, 275.
comitia tributa, established, 57; elects the quaestors, 57; elects military tribunes, 70, 77, 127.
commissioners, three police, 83; agrarian, 160–161, 162.
concilium plebis, see *Plebeian assembly*.
consuls, institution of, 28; collegiate tenure, 28; term, 28–29; insignia, 29; powers, 29–31; admission to the senate, 33, 75–76; position in senate, 34–35; powers to be defined by a commission, 50, 51; do not impose the highest fine, 51; bound by laws of Twelve Tables, 53; lose right of selecting senators, 75, 76; loss of power, 89–90, 142; authority limited by provincial praetors, 111; reëlection of, 73, 124, 140, 203; religious veto, 141; quasi-dictatorial power, 126, 142; to remain in Rome, 203; consular term shortened, 270.
conubium, see *Jus conubii*.
court of ten, 45, 56; for cases of extortion, 145–146; corruption of the equestrian courts, 186–187; Sulla's reorganization of the courts, 205–206; Caesar's reform of, 279–280.
Crassus, Marcus Licinius, 198; sketch of, 212; combines with Pompeius and the democrats, 215–216; first consulship, 216–217; projects, 223–224, 225, 231, 234; in the first triumvirate, 235, 236, 237, 243; conference at Luca, 244–245; second consulship, 246–247; death of, 251–252.
cura annonae, 242; see *Distribution of grain*.
curies, organization of, 9–10; see *Curiate assembly*.
curio, 9; *maximus*, 9; election of, 35, 127.

debt, law concerning, 41, 52; Licinian provision regarding, 66–67, 70, 76; cancellation of debts, 83, 228, 261, 262; one-fourth to be paid, 197; Caesar's law respecting, 265.
decemvirs, the election and powers of, 51; the first, 52; the last, 54.
decemviri sacris faciundis, 67; election of, 180; see *Duoviri sacris faciundis* and *Priestly colleges*.
decemviri stlitibus judicandis, see *Court of ten*.
democrats, 179; ascendency of, 180–181; rule of, 197; adherents and aims of, 213–214; combine with Pompeius and Crassus, 215–216.
denarius, weight and value of, 122–123, 188.
dictator legibus scribundis et rei publicae constituendae, 199, 264; *perpetuus*, 268.
dictatorship, establishment of, 32; powers limited, 90, 107; disappearance of, 126; nature of Sulla's, 198–199; Caesar's first, 261–262; second, 262; nature of these dictatorships, 264; Caesar's, for ten years, 267; for life, 268.
director, general, of curies, elected, 35, 127.
districts, the Servian, 21; the city and country, 48, 81; four organized in 387 B.C., 62; military pay by, 63; two in 358 B.C., 72, 95; two in 332 B.C., and two in 318 B.C., 97; two in 299 B.C., 98; two in 241 B.C., 109; relation to centuries, 119; each district elects jurors, 191–192; the districts, 200–201.
domi, 30–31, 203.
Drusus, Marcus Livius, laws of, 187–188; support of, 188; proposes

Drusus (*continued*).
granting citizenship to Italians, 188–189; death, 189.
duoviri perduellionis, 12, 18, 31, 227.
—— *sacris faciundis*, 18, 67; see *Decemviri sacris faciundis*.

election, consular, in 63 B.C., 229; for 53 and 52 B.C., 248; elections for 47 and 46 B.C., 265; for 44 and 43 B.C., 269.
equites equo privato, instituted, 64; see *Aristocracy of wealth*.
—— *equo publico* or *celeres*, see *Equestrian centuries*.

family, the Latin, 2–3.
farming out the revenues, system of, 39–40; by censors, 62, 143; results of, 153, 207, 278.
fasti, 18, 52, 80, 82, 281.
fine, the highest, 51, 53, 87.
Flaminius, Gaius, 112–116; censorship of, 115; reform of the centuriate assembly by, 118–121; law on coinage of, 122–123.
freedmen, services of, 71; sons of, admitted to the senate, 78; enrollment of, by Appius, 79; by Rullianus, 81; by Flaminius, 118, 155, 178, 193–194, 195, 196, 198, 200; importance of, 130; regularly citizens, 148; rights of, 148.

gens, 3; *gentes minores*, 20.
Gracchus, Gaius Sempronius, 160, 162, 164; sketch of, 168; laws of, 169–173; as administrator, 173; opposition to, 173; projects of, 174; death, 175; character of his legislation, 175–176; fate of his laws, 176–177.
Gracchus, Tiberius Sempronius, sketch of, 159–160; agrarian law of, 160–161; revolutionary proceedings, 162; canvass for reëlection, and death, 163; as a politician, 163–164.
grain, distribution of, 150; by Gaius Gracchus, 169–170, 184, 188, 207–208, 214, 215; by Cato, 233; free, by Clodius, 239; by Caesar, 275.

horsemen, see *Equestrian centuries*.

imperium, 11, 15; *aequum* or *maius*, 219, 264; *domi*, 30–31; *infinitum*, 218, 221; *infinitum maius*, 242–243; *militiae*, 31.
intermarriage, right of, see *Jus connubii*.
interregnum, 13–14, 33; in 55 B.C., 245–246; in 53 and 52 B.C., 248–249.
Italians, origin and divisions of, 1–2; citizenship, 167, 174, 188–189, 190–191; rebellion of, 190; see *New citizens*.

judiciary, see *Courts*.
jurors, see *Senators*, *Knights*, and *Tribuni aerarii*.
jus Arimini, 97, 200; *commercii*, 6, 8, 25, 94, 95, 96; *conubii*, 6, 7–8, 25, 52, 53; explained, 59; results of, at Rome, 59–60, 94, 95, 96, 97, 148; *cum patribus agendi*, 15; *cum plebe agendi*, 44; *cum populo agendi*, 15; *Flavianum*, 80; *honorum*, 7; *imaginum*, 60–61, 103; *intercedendi*, 28, see *Consuls* and *Plebeian tribunes*; *Latii*, see *Latin rights*; *provocationis*, 7, see *Appeal*; *suffragii*, 7, see *Citizens* and *Citizenship*.

king, election of, 11, 14; insignia and attendants, 14–15; powers, 15–17; of sacrifices, 32, 82.
knights, as jurors, 170–171, 178–179, 191–192, 197, 202, 216; to become senators, 170, 187; list of, 205; remission of rents to, 171, 234, 237; seats in theatre, 154, 217; see *Equestrian centuries* and *class*, and *Aristocracy of wealth*.

lands, public, 19–20, 40; maximum to be occupied, 66, 69; of Capua, confiscated, 131, 144–145; rent on, not collected, 144; distribution of, by Saturninus, 183–184; by Rullus, 226; Caesar's assignment of, 275.

Latins, the, 1; territory of, 2; in league with Rome, 93; revolt of, 95; the *prisci Latini*, 100; during and after the second Punic war, 130–131, 135, 189, 190; citizenship, 167, 174, 190–191; the transpadane, 255; given citizenship, 260; see *Latin league* and *rights*, and *New citizens*.

latus clavus, 137; *cf.* 104.

law, nature of, 10–11; dispensation from, 12, 15, see *Senate*; Acilian, 171; Aelian and Fufian, 141; first agrarian, 51; agrarian of 111 B.C., 177; *Antonia de proscriptorum liberis*, 260; Aternio-Tarpeian, 51; *Atia de sacerdotiis*, 228; *Aurelia judiciaria*, 216; Caelian (ballot), 157; Caecilio-Didian, 185; agrarian, of Caesar, 236–237; his criminal law, 279–280; concerning debts, 261, 265; his municipal law, 276–277; of Lucius Caesar (citizenship), 190–191; *Calpurnia de ambitu*, 218; *Calpurnia de pecuniis repetundis*, 145–146; Cassian (ballot), 157; *centuriata de censoria potestate*, 61; Claudian, 115–116, 117; Cornelio-Baebian, 144; *rogatio Cornelia Caecilia*, 243; Cornelio-Fulvian, 144; of Gaius Cornelius, 217–218; the curiate (*lex curiata*), 11, 14, 27, 35–36, 156, 247; Genucian, 73, 192, 261; *de bello indicendo*, 156, see *Declaration of war*; *Didia cibaria*, 152; *Domitia de sacerdotiis*, 180; of Marcus Livius Drusus the younger, 187–189; *Fannia cibaria*, 152; agrarian, of Flaminius, 112–114; on coinage, 122–123; Flavian law of procedure, 80; Gabinian, regarding piracy, **law** (*continued*). 218–219; Gabinian (ballot), 157; of Gaius Gracchus respecting appeal, 169; distribution of grain, 169–170; equestrian jurors, 170–171; province of Asia, 171; consular provinces, 171–172; colonies and roads, 172–173; character of laws of Gaius Gracchus, 175–176; fate of, 176–177; agrarian, of Tiberius Gracchus, 160–162; its results, 163–165; Hortensian, 83–85; *Julia de civitate sociis et Latinis danda*, 190–191; *Julia de pecuniis repetundis*, 238; Julio-Papirian, 51; *Licinia de sodaliciis*, 246; *Licinia Mucia de civibus regundis*, 189; Licinio-Sextian, 66–70, 112, 161; Maenian, 85; Mamilian, 179; Manilian, 220–221; of Gaius Marius, 179; laws of 342 B.C., 72–73; *rogatio Messia*, 242–243; *Orchia*, 152; Plautian on jurors, 191–192, 197; Papirian, 157, 166; Plautio-Papirian (citizenship), 191, 196; *Pompeia de ambitu*, 249; *de vi*, 250; of Pompeius, concerning jurors, 246; electoral corruption, 249; *leges Publiliae Philonis*, 74; *Publilia Voleronis*, 48; of Publius Clodius Pulcher, 239; concerning appeal, 239–240; of Rullus, 226–227; Ogulnian, 82; Ovinian, 75–76, 137, 201; Poetelian, 76–77; Porcian (appeal), 133; Rubrian (Carthage), 172, 175; Rubrian (cisalpine municipalities), 260, 276; of P. Sulpicius Rufus, 193–195; *sacratae*, 42, 51; *satura*, 185; of L. Appuleius Saturninus (treason), 183; *Sempronia judiciaria*, 170–171; *Servilia agraria*, 226–227; Servilian (jurors), 178–179; *Servilia repetundarum*, 179; of Gnaeus Pompeius Strabo (lesser Latin rights), 191; sumptuary laws, 152; of Spurius Thorius, 176–177; *Tullia de ambitu*, 229;

law (*continued*).
of the Twelve Tables, 52–54, 55, 56; the Valerio-Horatian, 55–57; *Vatinia de provincia Caesaris*, 238; of Quintus Varius (treason), 189–190, 191–192; *Villia annalis*, 139–140, 203.
league, the Latin, 4, 6, 25; treaty with Rome, 93, 94; reorganized, 94–95; dissolution of, 96.
legati legionis, 278; *pro praetore*, 220, 221, 238.
lex, see *Law*.
libertini, see *Freedmen*.
lictor curiatius, 9, 156.
limit, the mile, 30, 72, 87, 133.

magister equitum, 32, 71, 114, 123, 126, 262, 268, 269.
magistracies, combination of, prohibited, 73; powers and influence of, 89, 142, 269–271; restrictions on eligibility to, 139–140, 203; curule, defined, 102; new proconsular, of Pompeius, 243.
magistrates, extraordinary, for 45 B.C., 267–268; the republican, degraded by Caesar, 269–271; number of, increased by Caesar, 270–271.
manus, 2–3.
Marius, Gaius, 179; rise of, 180; reelections, 181; military reforms, 181–182; combines with Glaucia and Saturninus, 182–183, 184; allows them to be massacred, 184–185, 194; outlawed, 194–195; butchery by, 196.
master of horse, see *Magister equitum*.
militiae, 30–31, 203.
multa maxima or suprema, 51, 53, 87.
municipalities, government of, 206–207, 276–277.

nexum per aes et libram, 41, 52, 70, 76–77.
nobilis, 102–103.
nobility, becomes an oligarchy, 128–129; its methods of reimbursement, 144–145; subject to equestrian courts, 170–171; see *New aristocracy* and *Oligarchy*.
novus homo, 102–103.
nundinae, 84.

obnuntiatio, 141, 236, 237, 239.
occupation, system of, 40–41, 69, 177.
Octavius, Gaius, Augustus, adopted by Caesar, 269, 272, 274, 281, 283.
oligarchy, consolidation of, 139; corruption, 178, 185; and equestrian courts, 186–187; condition and support of, 211; alliance with knights, 217, 233; mistakes, 234; revival of, 244, 245; see *New aristocracy* and *Nobility*.
opposition, the new, 105, 122, 123.
order, the equestrian, or *ordo equester*, 118; see *Aristocracy of wealth*.
ornamenta consularia, 270.

pagus, 3–4.
parties, patrician, 53; the political, in time of Aemilianus, 165–166.
patres [et] conscripti, 33.
patria potestas, 2–3, 7–8; see *Jus conubii*.
patricians, the, 37; see *Citizens*, *Senate*, and *Patrum auctoritas*.
patriciate, the, 35, 102, 272–273.
patricii, 7.
patronus, 8–9.
patrum auctoritas, 14, 33, 74, 85.
plebeians, origin and status of, 19, 20, 21; and Servian reform, 24; admitted to the senate, 33; in the curiate assembly, 35, 36, 127; gains of, 37–38, 40–41; first secession, 42; plebeian organization, 42, 46–47, 50; elected decemvirs, 51, 54; right of intermarriage, 52, 58, 59–60; eligible to consular tribunate, 60, 61, 62–63, 64; eligible to quaestorship, 65; to consulship, 66, 67, 68; to curule aedileship, 70;

plebeians (*continued*).
plebeian dictator and censor, 71; 72, 73; plebeian praetor, 75; in the senate, 75–76; in the priesthoods, 81–82; ineligible to the position of interrex and first senator, 85; share in the government, 87.
plebiscita, 44, 45; validity of, 57, 74, 83–84; see *Law*.
pomerium, 24–25, 269.
Pompeius, Gnaeus, 198, 209; sketch of, 211–212; in Spain, 215; combines with Crassus and democrats, 215–216; first consulship, 216–217; in command against pirates, 219–220; eastern command by Manilian law, 220–221, 232–233; retirement of, 233, 234; in the first triumvirate, 235, 236, 237, 240–241, 242; proconsular magistracy, 243; conference at Luca, 244–245; second consulship, 246–247; governor of Spanish provinces, 246, 247–248; third consulship, 249–250; position and motives, 252–253; the filling of provincial governorships, 253–254; law respecting magistrates, 254; extension of his governorship, 254, 256; doings of, 256–257, 258; given supreme command, 259, 260; death, 262.
pontiff, the chief, 31–32, 55; elected, 127.
pontiffs, the, 18; duties and influence of, 81–82; number of, increased, 82; elected, 180; see *Priestly colleges*.
population, see *Number of citizens*.
praefecturae, 207.
praefectura morum, 267, 268.
praefectus urbis, 17; *praefecti sociorum*, 94; *jure dicundo*, 96, 97, 108; *praefecti urbis*, 267–268.
praetorship, establishment of, 68, 70; claim to seat in the senate, 75–76; praetors, two provincial, 111; religious veto of, 141; their loss of power, 142; to remain at Rome, 203; jurisdiction of, 205–206; Cornelian law concerning, 218; number increased by Sulla, 204; by Caesar, 265, 270, 271.
praetor peregrinus, instituted, 107–108; president of court for cases of extortion, 145; jurisdiction, 205–206.
praetor urbanus, 108; in charge of games, 143; jurisdiction, 205.
princeps senatus, see *First senator*.
privilegium, 53, 240, 250.
proletarii, 21, 22, 36, 154–155.
prorogatio imperii, 75, 98, 107, 125.
provinciae, 89, 110.
provinces, the consular, 171–172; government of, 204; the Roman, 277; administration of, 277–278.
publicani, 40; see *Aristocracy of wealth*.
Pulcher, Publius Clodius, laws of, 239; banishes Cicero, 239–240; relegates Cato, 240, 240–241; death, 248–249.

quaestio extraordinaria, 135–136, 145; *quaestiones perpetuae*, 146; see *Court; quaestio repetundarum*, see *Court for cases of extortion*.
quaestores parricidii, 17–18; see *Quaestors; quaestores classici*, 101; *pro praetore*, 223, 240.
quaestors, 17, 31; elected, 57; increased to four, 65; four Italian, 101; claim of ex-quaestors to seat in senate, 137, 201; increased by Sulla, 201; increased by Caesar, 270.

rex sacrorum, see *King of sacrifices*.
rights, the Latin, 94, 97, 191, 200, 275–276.
rogatio, see *Law*.
Rome, site of, 4–5; extension of the city, 24–25; of its territory, 25; in

Rome (*continued*).
league with Latins and Hernici, 93–94; conquest of Italy, 98–99; policy of, 100–101; in 241 B.C., 109–110.
Rufus, Publius Sulpicius, 186, 188; laws of, 193–194; death, 194–195.

Sardinia and Corsica, annexed, 110.
Saturninus, Lucius Appuleius, combines with Marius, 182–183; laws of, 183–184, 185.
secession, the first, 42; the second, 54; third, 83.
senate, the royal, origin, 12; membership, 13; procedure, 13; powers, 13–14; the republican, membership, 33; number, 33; patrician section of, 33; influence, 33–35; approval of plebiscites, 57, see *Patrum auctoritas;* and consular tribunate, 61; sons of freedmen admitted by Appius, 78, 80; exercises a suspensive veto, 84; influence of, 91–92; senatorial government, 92; opposes Flaminius, 113; leadership in first Punic war, 106–108; in the second, 123–124; its zenith of power, 125; confers quasi-dictatorial authority, 126, see *Senatus consultum ultimum;* membership of (2d century B.C.), 136–137; functions, 137–138; degeneracy, 138–139; senatorial government, 139; safeguards against the magistrates, 139–140; against the assemblies, 140–141; admission of three hundred new members, 170, 187, 195, 201; a political tool, 197; membership under Sulla, 201; admission to, 201–202; powers and influence, 202; confers proconsular authority on Pompeius, 215; power of granting dispensations, 217–218; confers *imperium infinitum*, 218; its proceedings published, 236; ignored by Caesar in legislation, 236; membership under Caesar, 265, 271; power and
senate (*continued*).
influence, 272; number increased to six hundred, 201; to nine hundred, 271; see *Senator.*
senator, first, 33, 85, 132, 136, 159, 178, *cf.* 267; patrician senators, 33; senators vote in the equestrian centuries, 104; senators and sons, seagoing vessels of, 115–116; special appointment of, 125–126; privileges of, 103–104, 137; excluded from the equestrian centuries, 166–167; as jurors, 146, 170, 178–179, 191–192, 197, 202, 216; debts of, 193–194.
senatus consultum ultimum, 126, *cf.* 125; 169, 175, 185, 229–230; usage and validity of, 231, 233, 248, 258, 265.
Sicily, province of, 110, 149–150.
Sulla, Lucius Cornelius, 180; consul, 193; marches against Rome, 194–195; laws of, 195; conquers Italy, 198; nature of his dictatorship, 198–199; proscriptions and confiscations by, 199–200; laws in regard to citizenship, 200; assemblies, 200–201; senate, 201–202; tribunes, 202; qualifications for office, 203; consuls and praetors, 203; provincial government, 204; censorship, 204–205; priestly colleges, 205; judiciary, 205–206; military colonies of, 206; municipal government, 206–207; finances, 207–208; reëstablishes constitutional government, 208; observations on his constitution and work, 208–210.

tresviri capitales or nocturni, 83; *epulones*, elected, 180.
tribunate, the consular, powers and privileges of, 60–61; elections to, 64; abolished, 66, 67.
tribunes, military, election of, 70, 77, 127.
—— the plebeian, number and term of, 42–43, 50; intercession of, 43; jurisdiction, 43–44; powers, 44, 56; means of coercion, 44–45;

tribunes (*continued*).
suspended, 51; reëstablished, 55–56; succession of, 56; attend the senate, 56; jurisdiction, 56; obtain *jus cum patribus agendi*, 84; powers and influence, 90; dependence of, 90–91; religious veto, 141; chief legislators, 156; reëligible, 166; intercession, in certain cases prohibited, 172; ignored, 184; violated, 189; their bills to be sanctioned by the senate, 195; intercession disregarded, 196; claim to seat in the senate, 137, 201; Sulla's degradation of, 202; loss of jurisdiction, 201, 206; eligibility to office restored, 215; powers restored, 216; intercession restricted, 218;
tribunes (*continued*).
intercession ignored and inviolability infringed, 233, *cf.* 236–237, 260–261; opposition of two, to Caesar, 271.
tribuni aerarii, 216, 246, 279.
tribus, 5; see *District*.
tributum, 16, 41, 63, 155.
trinundinum, 185.
Tusculum, incorporated, 95.

war, the declaration of, 12, 14, 16; the first Punic, difficulties of, 106–107; conduct of, 107, 108; losses in, and moral effects of, 108–109; political results of, 109; second Punic, consequences of, 128–131; results outside Italy, 131.

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